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Senate

The Senate met at 9 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, change and decay encompass us, but You alone are changeless. Transform us by the renewing of our minds so that we may do Your work. Set our affection on eternal things to enable us to keep life's vicissitudes in their proper perspective. Give us the grace to find the time to reflect on Your wisdom and to discover Your plans.

Deliver our lawmakers from reflex conformity that aborts Your providence. Teach them to decide based on enduring principles that have stood the test of time. Renew their strength and give them vigor for life's emergencies and patience for the sometimes pedestrian monotony of daily labors. Reveal to us life areas that need Your touch. Illuminate all of our paths that we may walk in Your truth.

We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 16, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Today the first 30 minutes of morning business will be under the control of the minority, to be followed by 30 minutes under the control of this side of the aisle. Following this morning business period, the Senate will resume consideration of the Defense authorization bill. The agreement reached last night allows for 30 additional minutes of debate prior to a vote in relation to the amendment of Senator DODD relating to the use of contractors and the custody of prisoners. Therefore, that vote can be expected shortly after 10:30 this morning.

Last night, Senators WARNER and LEVIN began working through a list of amendments and potential time agreements. Real progress was made. We will continue those discussions this morning to see which amendments both sides are prepared to vote on over the course of today. I hope we can have another productive day today and dispose of a number of these defense-related amendments prior to this evening's commitment.

Having said that, we are coming to the close of our third week of consideration of this bill. We have had somewhere around 78 amendments offered, and we have disposed of 74 of those 78 amendments. I do appreciate the effort of my Democratic colleagues to facilitate moving toward closure on this bill. I know they, working with Chairman WARNER, are doing everything possible to narrow the list of remaining amendments. Both sides are working hard in that regard. They must continue to do that because we have a number of amendments still before us.

I have not ruled out filing cloture on this Defense bill if it becomes necessary, just from a management perspective. Obviously, it would be easier if we could see an end point to the amendments and know that we can complete this bill in a short timeframe. So, again, I encourage everyone to show restraint in the amendment process. Over the course of the day, the leadership on both sides will monitor the course of the bill.

We will likely revisit our situation on the bill later today and see if there is an end point that is near, something to which we can agree. If not, then cloture may be necessary to bring the bill to conclusion.

As a reminder, we will stack judicial nominations for votes throughout the day as well. As always, Members will be alerted as these votes are set.

VISIT TO IRAQ

Mr. FRIST. Mr. President, I have a few remarks on leader time that have to do with a discussion I began on Monday, and that is a followup on a trip about 12 days ago to Iraq. Again, we awoke today to increased terrorist activity in Iraq, with assassination and with sabotage of the oil supply lines there. I am saddened by the fact we see this terrorist activity, but I will have

to say, as I said on Monday, this increased terrorist activity was anticipated. It is unfortunate we have to anticipate this increased terrorist activity, but it was very clear from our discussions with the Iraqi leadership, as well as with our civilians and military leadership in Iraq, that the terrorists' goal is to do everything possible to obstruct this rule of law, to obstruct this transfer of power, this transfer to sovereignty, this transfer from us being an occupying force to a mission.

It is not aimed just at the United States or just the coalition, or not just the new Iraqi interim government, but it is ultimately aimed—and this is from the Iraqi leadership perspective—at the Iraqi people.

The trip we took was with Senator BENNETT and Senator ENSIGN. We did have the opportunity just a few days after the appointment of the new Prime Minister to meet with the Prime Minister and have an extended discussion. The new Prime Minister is Dr. Ayad Allawi. He is a neurologist by training. He is someone who 3 weeks ago did not anticipate being the new Prime Minister.

As I said earlier in the week, what we found in our discussions with our leaders there, but even more importantly with the Iraqi leadership, is that in spite of this anticipated and actual occurrence of increased terrorist activity—really since late March, and it will likely extend until several weeks or maybe longer after passage of sovereignty on June 30—was a lot of optimism and a lot of confidence in this new interim government. That optimism was tempered with caution and hope, but it was also paired with a real determination to succeed. Backing down in response to these terrorists is simply not an option. That is what the Iraqis told us, what the new Iraqi interim government told us.

In addition, we were encouraged by the confidence that our civilian leaders, Ambassador Bremer and his colleagues, have in the new ministers, or 33 of these new ministers who have been appointed, as well as the new Iraqi leadership, the Prime Minister, the President, who was here last week, and with whom the Democratic leadership and our leadership had an opportunity to meet. It is this interim government to whom we will be passing sovereignty on June 30. So to hear this confidence come from people who are on the ground in Iraq, the Iraqi people, as well as our leaders, again, was very reassuring to us.

Dr. Allawi has been a longstanding opponent of Saddam Hussein's regime.

He is a man of great character, and he is widely respected throughout Iraq. He made it very clear to us that he shares our strategic goals—strategic goals which become a partnership in many ways.

In our meeting with the Prime Minister, he stated very clearly that we—he spoke in terms of ''we,'' the Iraqi people, the Iraqi government and the United States and the coalition—must again and again come back to what we and they are fighting for; that is, freedom and human rights and the rule of law.

This fight on terrorism is one that he knows will be long. He says it is now an Iraqi responsibility, and if these acts of terrorism are acts of terrorism against the Iraqi people and their hope for prosperity and their livelihood—and he would be saying that again and again as Prime Minister, and indeed he has done that over the last several days. He said there are some in Iraq who want to destabilize Iraq, that tyranny works hand in hand with terrorism. He said Iraq has a responsibility at this point to confront this evil in the region and the world; that Iraq needs help but it is Iraq's responsibility.

He was quite clear. The forces aligned against us understand that if Iraq is successful and succeeds in establishing the rule of law, those forces are defeated, but if Iraq fails as a state, then terrorism may be uncontrollable there—but also throughout the Middle East. He told us that a healthy Iraq will lead to a healthy and more stable Middle East region.

He also made clear that Iraq cannot succeed without the assistance of the United States, the international community, and the coalition forces.

He outlined to us various processes that must be worked in parallel if Iraq is to succeed in rebuilding the Iraqi institutions that were hurt, destroyed, and run in the ground by Saddam Hussein. We talked about the court system, the police force, the transformation of Iraqi society, and ensuring that political reform leads to Iraqis choosing their own leaders.

He said these two goals are, No. 1, security, and No. 2, free elections.

As we all know, this interim government will serve for a period of about 6 months at which time free elections will take place in January of next year.

A fourth point he made is to pursue economic development.

Again, he came back to the terrorists—that the terrorist activity there and the fighting going on there discourages investment in Iraq.

A major goal of the Prime Minister is to build consensus so that in Iraq a national identity will prevail. Their goal, though, continues to be hindered by Saddam's policy of divide and rule that Saddam purposely used to fracture Iraq over decades.

The Prime Minister said we need to help the country in order to move forward, and to do that we need to put that Iraqi face on security, to put that Iraqi face on the reconstruction and other efforts to rehabilitate the country.

He assured us that under the new leadership of the interim Iraqi government which will occur that it will be the Iraqis who will be telling the Iraqi story.

The central part of the Prime Minister's policy will be to combat terrorism.

We very quickly moved into the importance of having a strong judicial system—a strong rule of law to support the system, as he described it.

He pointed out that Iraq must improve and expedite the training of police and security forces in the country. He thanked us for providing tremendous assistance as they rebuild that police and security force.

Iraq needs to take steps with the help of its neighbors to tighten border controls and stop terrorist trafficking.

The Prime Minister also intends to make clear to the Iraqi people that the terrorist attacks we are seeing on this infrastructure—such as the tragedy of the sabotage of the oilfields over the last 24 hours—are attacks on the Iraqi people. He says this again and again—that terrorism hurts the Iraqi people, and thus it is the responsibility of the Iraqi people to come back and confront the terrorists.

As we wrapped up our meeting with the Prime Minister, he very soberly said that as Iraq moves closer and closer to democracy, the more the terrorists will attack. Indeed, that is exactly what we are seeing over the last several weeks since late March, and again will likely continue for the next several weeks.

He wanted us to understand that he and most Iraqis deeply appreciate the sacrifices that the United States of America has made for his country, for freedom, for rule of law, and for that move toward democracy.

Thus, while the road ahead will be difficult, the Iraqi people we believe—having just been there—are fortunate to have such a dedicated public servant with his vision and the will to work toward a free and democratic Iraq. The Iraqi people have a true leader in Prime Minister Allawi.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that our 30 minutes of morning business be divided as follows: Senator BENNETT for 15 minutes, Senator CHAMBLISS for 8 minutes, and Senator DEWINE for 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes with the first half under the control of the Democratic leader or his designee and the second half under the

control of the majority leader or his designee.

Who seeks recognition?

ORDER OF PROCEDURE

Mr. REID. Mr. President, the Democrat time this morning will be dispersed as follows: 8 minutes to Senator LINCOLN, 8 minutes to Senator CORZINE, and 8 minutes to Senator HARKIN. We will reserve the rest.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

AMERICAN SPIRIT

Mrs. LINCOLN. Mr. President, we have so much to do in this body and so much to talk about. But I can't think of anything more important for us to talk about than relieving the stress on working families and the American people.

We had a joint session yesterday where we heard the President of Afghanistan who very joyously spoke of the brilliant spirit of the American people. I think if we look at that brilliant spirit and what composes us as American people and the things we are able to do, it ultimately depends on what makes us the kind of people we are.

I rise today to pay tribute to the American people. For well over 200 years, the American people have proven their ability to overcome all manner of obstacles. At times they have done so with the help of their duly elected government officials, and at times they have done so in spite of their duly elected government officials. But either way, in the end, the spirit and character of the American people move this Nation toward a greater realization of the principle written about by Thomas Jefferson over 228 years ago.

I am not normally a betting person, but I say that putting your money on the American people is about as close to a sure bet as you are going to get.

In 1945, when millions of soldiers came home from the war, this Nation put its money on the American people, and it gave those who served this country the GI bill so they could educate themselves and make a better life for them and for their families. That investment helped to create an economic boom the likes of which this Nation has never seen—not to mention the talented minds that were nurtured and those who were given the opportunity to reach their potential. Millions of families were able to raise their economic standing and take part in the American dream. That economic expansion is one of the clearest examples that investments in education can pay off.

As I mentioned, we have many issues to talk about, much to do for the security of our Nation and the people. One of the key factors in making sure we deal with these issues and we have the ability to provide the security—whether it be economic, whether it be social, or whether it be the values and simple security of families in this country—depends on the American spirit. It is simple. If we invest in the American people, the American people always bring this Nation a good return.

Now we are faced with new economic realities and new challenges in an information age as well as an age where wars will be fought in many different ways than what we have seen in the past. The question is, Are we investing in the American people the way we once did in 1945? Are we providing for another of the greatest generations of Americans, or are we missing the opportunity to provide for the children of today who will be the future of this country?

Last month I was in Garland County, AR, for the grand opening of the new Head Start Center there. It was a proud day for me. The center was named in my honor, but it was not just because the center would be associated with my name that I was proud, but more importantly because my name would be associated with a center of learning. I remarked that day that programs such as Head Start were practical ways we could provide opportunity for working mothers to raise their economic standing, to eliminate some of the stress on these working families, these working American families who are at the base of what this Nation is all about. Head Start can be the difference between a family becoming part of the economic mainstream. When mothers have a nurturing place to send their children, they can go to work or to school with the kind of confidence they need to reach their potential. They are not put in the terrible position of having to choose between employment and the safety or health of their children.

With the rise we are seeing in both child abuse and neglect because of the cuts in so many vital assistance programs, the need for childcare is at an alltime high in this country. More than just relieving the stress of finding good childcare, a program such as Head Start helps to prepare children for a lifetime of learning.

Everyone knows the more you learn, the more you earn. In seeing the children in that Head Start Program walking by, all of those little 4-year-olds with their Styrofoam cup, with their individual toothbrush in their hand, so proud they were learning something that was going to be a part of their life forever—good dental hygiene. It is not just teaching reading, writing, and arithmetic; it is teaching these children how to be a person who can then contribute their whole potential to their community and Nation. They returned from having brushed their teeth with this huge smile on their face about what they had learned.

These are programs vital to this country and its well-being. Families in Arkansas recognize the hope that programs such as Head Start and childcare assistance programs provide. Right now, 800-plus Arkansas families are waiting for childcare assistance. Think of that. There are 800 families in line for hope in reaching the American dream. However, for some reason this administration does not want to give that hope a chance. In the President's budget request, almost 40 programs to help low-income working families make that transition into the economic mainstream through programs such as Head Start were not adequately funded.

In addition to cutting programs to help working families, this administration has failed to fully fund the bipartisan No Child Left Behind Act. Last year, No Child Left Behind was underfunded by as much as $9 billion. I supported No Child Left Behind because I believed that with proper funding it would give children an opportunity to reach their full educational potential. I still believe that it can be an effective engine of reform in our public education system. For that reform to be effective, it is going to require significant investment, which so far has not been forthcoming from this administration.

Unless we make education a priority, an entire generation of Americans could miss out on the American dream. The fact is our economy has changed, but our approach to supporting and funding education has not. We are training our children to take on manufacturing jobs that no longer exist or are quickly disappearing. Not only are we losing manufacturing jobs, but now technical and highly skilled tasks are leaving our shores for cheaper highly educated workers. We can no longer settle for doing what we have always done.

This administration believes we can have champagne for the price of beer. The reality is, if you poorly fund education, you get a poor educational system.

But the good news is that if you properly fund education—from Head Start through high school—the chances of a world class education system go up exponentially.

If we are to give working mothers, fathers and their children an opportunity to live the American dream we must invest in their future.

As I said at the outset, every time we have put our money on the American people it has paid off. Let's take that bet and make the investment one more time.

I believe the children of today who are the brilliant spirit of the American people of the future, are worth the investment.

Mr. REID. I yield 4 minutes to the Senator from Florida, Senator NELSON.

FLORIDA VOTING ROLLS

Mr. NELSON of Florida. Mr. President, I call to the attention of the Senate the potential disaster in the making with regard to the Presidential election in the State of Florida. Everyone in the country knows what we went through 4 years ago in the Presidential election. It ended up being the difference of 537 votes that then cast Florida's electoral votes to decide the national Presidential election.

To the great surprise and dismay of many registered voters who arrived at the polling places ready to cast their votes 4 years ago, they were told their names had been struck from the voting rolls because they were convicted felons, when, in fact, they were not. They had a similar name, like John Doe or Jane Doe, that was on a list of 100,000-plus convicted felon names that had been sent out to the 67 county election supervisors. They had struck these names.

Members of the Senate, we have a disaster in the making again. The State of Florida has now sent out a list of 48,000 convicted felons whose names are to be struck from the voting rolls when, in fact, the matches are not guaranteed. To the contrary, several election supervisors have already received the list and noticed, in fact, they have employees in their own offices who were to be struck. They are not convicted felons.

We simply cannot allow this to happen. This raises questions about our ability to cast our vote in a Presidential election.

Mr. REID. Will the Senator yield?

Mr. NELSON of Florida. I certainly yield to the distinguished Senator from Nevada.

Mr. REID. I appreciate very much the Senator bringing this matter to the attention of the Senate and the country.

I have strong views that if someone has been convicted of a crime and has fulfilled the terms of the sentence by that court and completed their probationary period or period of parole, that person should be able to vote. If a sentence is too short, give them longer sentences. But if someone, in effect, has been punished and completed their terms of punishment—retribution, call it whatever you want—that person should be able to vote.

It should be a national law that when someone completes the terms of their imprisonment, parole, probation, they should be able to vote. It is unfair to people who are trying to get back on their feet to not be able to be part of the American system. That is what we want them to do. We send them to prison to be rehabilitated. Part of their rehabilitation is the ability to vote.

Would the Senator acknowledge there is some merit to my statement?

Mr. NELSON of Florida. The Senator has pointed out an underlying principle of fairness. Florida is only one of seven States that has a process whereby a convicted felon has to restore their voting rights.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. REID. Mr. President, 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON of Florida. I thank the Senator.

I conclude by saying to the Senator from Nevada, it is important. This is another principle that is about to be violated; that is, the principle of the right to vote—that if you are a registered voter, and you get to the voting precinct, you find you cannot vote because your name has been mistakenly struck because it happens to be a match with the name of a convicted felon under another Florida law.

So what I have done is filed a friend of the court brief, an amicus curie, along with the CNN suit against the State of Florida that says the public ought to have a right to inspect those voting rolls and those lists of 48,000 names to be struck.

The State of Florida says, under a law, the public cannot inspect those records and copy them. I hope the suit will be successful in declaring the law unconstitutional and remove this cloud from our ability to vote.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from the great State of Iowa.

Mr. HARKIN. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes.

Mr. HARKIN. I thank the Presiding Officer.

HAMMERING THE MIDDLE CLASS

Mr. HARKIN. Mr. President, what we see happening in America today, after 3½ years of this administration, is what I call the middle-class squeeze, a squeeze which has been tightened incredibly by the policies of the Bush administration. The truth really is, it is not so much they are being squeezed, the middle class is actually being hammered.

Think about it. Since Mr. Bush took office in January of 2001, nearly 2 million private sector jobs have been lost, putting downward pressure on wages and salaries. There has been some job growth over the last couple of months, but just since the passage of the 2003 tax bill, 11 months ago, our economy created 1.2 million fewer jobs than the President's own Council of Economic Advisers predicted would be created without the tax bill. We have 2 million fewer jobs than what they predicted if they passed the tax bill.

Now, again, there have been a few jobs in the last couple months. Of course, when the glass is dry, a drop of water seems like an ocean. That is what we have had. We have had a couple drops of water. We have had a couple months of job growth, but you don't judge an administration by 2 months, you judge it by 4 years, and over 4 years we have lost almost 2 million jobs. That is not even the half of it.

Family income has fallen 2 percent. Housing prices have increased 18 percent. Health insurance premiums are up 50 percent. Utility bills are up more than 15 percent. Credit card fees have doubled. And, in large measure, because of the Bush tax cuts and their negative impact on our State budgets, college tuition, under the Bush administration, is up a whopping 35 percent.

Do you know who pays college tuition? The middle class. Meanwhile, as the middle class gets squeezed, Mr. Bush's base has never had it so good. I refer my colleagues to an article in yesterday's Wall Street Journal titled ''U.S. Led a Resurgence Last Year Among Millionaires World-Wide.'' This article, in yesterday's Wall Street Journal, reports that the number of North Americans with over $1 million in financial or liquid assets increased by 13.5 percent last year, and their assets increased by 13.6 percent. At the same time, the wealth of the ultra-high net worth individuals—those with over $30 million in assets—grew to a total of $2.5 trillion.

In the last 3 years, corporate profits are up over fourfold—62 percent over the past 3 years—but private wages are actually down. When we look at all compensation, private wages are less than one-third of normal growth.

It says in this journal article that the number of millionaires in the U.S. is up, as I said, 14 percent—actually 13.6 percent—and that ''the U.S. and Canada together added more new millionaires last year than Europe, Asia, Latin America, and the Middle East combined.''

Well, so much for the Bush tax breaks for the wealthy. That is exactly who they are helping. Clearly, the President's policies—tax cuts for the rich, lower taxes on investment income—are working for those at the top, but it is not working for those on Main Street. This administration is ignoring Main Street. It might be listening to Wall Street, but it is ignoring Main Street. Quite frankly, what Main Street is telling us, loudly and clearly, is that their No. 1 concern is economic security.

In the State of Iowa and across America, despite all the happy talk about the economy, people fear losing their jobs, their retirement, their health care. They are also worried about losing their right to time-and-a-half overtime. With the Labor Department's new overtime rule, people will be obligated to work 45, 50, 55, 60 hours a week with zero additional compensation. That is what is happening to the middle class.

Basically, it is hitting women more than anyone else. This is one group disproportionately harmed by the proposed new overtime rules. Why? Because the fact is, women tend to dominate in retail services and sales positions that would be particularly affected by this new overtime rule.

Married women increased their working hours by nearly 40 percent in the last 30 years. Consequently, their contribution to family income has also risen. So you have the squeeze on the middle class, which is now seeing the administration taking away their right to time-and-a-half overtime.

I have not even mentioned the discrimination against women in the workplace in terms of wages. Millions of women are working in female-dominated jobs, as social workers, teachers, childcare workers, and nurses, with equivalent skill, effort, responsibility, and working conditions as similar jobs dominated by men, but these women are not paid the same as their counterparts in the male sector.

This is wrong and it must end. That is why I introduced the Fair Pay Act in April 2003 to make sure women who are in these jobs are treated fairly and equitably.

In summary, this President, George W. Bush, has presided over the largest job loss of any President since the Great Depression. Yet he remains wedded to policies that are making the problem worse for the middle class. His administration has praised the outsourcing of jobs as something good for our economy. This administration opposes any increase in the minimum wage. They oppose extending unemployment benefits. They are trying to take away the overtime rights of millions of American workers. This administration has done nothing to help equalize pay for women in the workplace.

It all adds up to one thing: The middle class in America is getting hammered. It is time for a change. It is time to change our economic course. It is time to quit squeezing and hammering the American middle class.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from the great State of New Jersey.

Mr. CORZINE. Mr. President, may I inquire how much time I have?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator has 8 minutes.

Mr. CORZINE. Thank you, Mr. President.

Mr. President, before I begin, let me compliment the Senator from Iowa for addressing a topic on which I also want to speak. I think ''hammered'' probably is the right term for what is happening to the middle class as opposed to ''squeezing.'' That would be more reflective of the real desperation that many families feel.

Twenty-five years ago, generally, one member of a family was working. Now it takes two just to get by. Real wages are not growing in this economy. I think the Senator from Iowa points out very clearly how that is so painful in the lives of middle-class Americans.

Particularly apt is his reference to this overtime pay, which absolutely goes to the heart of the middle class. The idea that we are trying to squeeze down or hammer down the ability to generate real earnings for working Americans is just inconceivable.

I think the efforts of the Senator from Iowa are absolutely remarkable. We need to make sure America understands what is going on with regard to putting pressure on the earnings of the middle-class. That is what makes America great. It always has. It built America.

As one can see from this chart, average weekly earnings are up 1 percent during the time the President has been in office. Those are the lost jobs about which the Senator spoke. In the last 4 months, real wages for working Americans have gone down. We saw another statistic yesterday that indicated they are declining.

In that context, as the Senator from Iowa pointed out, college tuition costs are up. He said 35 percent. The numbers depend on how one calculates it. We have near 30 percent. Family health care premiums are up 36 percent. Gas prices are up 28 percent. At least in New Jersey, there have been property tax increases of 7 percent-plus every year under this administration's leadership. All we are doing is transferring tax breaks to those who are already doing well, the 13-percent increase in millionaires who got the tax cuts, while the property tax on middle-class folks has gone up. That is why people don't feel comfortable. That is why polls tell people the economy is not working, even though we have seen some statistics in the last 3 to 5 months that indicate it is working.

It is not happening for the breadth of America. People don't focus on averages; they focus on what happens in their lives. By the way, speaking of averages, if we put together the 500 times earnings that CEOs make versus the low-wage earner in a company, we will come out with a nice average. But what happens to the bulk of the people working at the company? They are not seeing wage growth. They are not seeing their income going up with these kinds of numbers. It translates into a ''hammering.'' The Senator from Iowa picked the right term.

My effort today is to focus on dependent children and elderly family members because that is another part of where the squeeze is actually happening. It is real. Under this President, we have seen increases in childcare for a two-child family go up $2,050 over the last 3½ years. For each individual child, it is about $6,000 a year to maintain childcare. Today, 65 percent of all mothers who are in the labor force have children under the age of 6. We have two partners working in a family to try to make ends meet, and childcare costs are going off the charts. That is the squeeze. That is money that comes out of their ability to have a positive quality of life.

There is a lot to be done. We had a bipartisan bill, the Snowe-Dodd proposal, to increase the welfare proposal by $6 billion worth of additional funding for childcare. Instead, we are getting proposals from the administration to cut 300,000 kids from childcare. It makes no sense. This is a fundamental area. When talking about family values and the importance of helping out communities, lifting them up and making ends meet, childcare is fundamental. We have one group of folks who want to actually invest in it so that we can make the quality of life for Americans better, and we have another group that wants to take away that ability and has cut 300,000 children from receiving childcare. That makes no sense.

Only 1 in 10 children who are eligible to receive Federal assistance today are actually receiving it because they don't have the resources to match against the demand. That doesn't fit with this picture where we are seeing real earnings not going up and the cost of living for the middle class going up and childcare costs going up and we are not doing anything but cutting what we do here.

Then is the issue of taking care of the elderly, making sure you have family care, a sick spouse, taking care of a senior, mothers and fathers who are retired. It is an incredible burden on all families, particularly if both partners in the family are working. Estimates are that there are about $250 billion worth of services provided by families to their own families that have no recognition in our national accounts, no recognition by our Federal Government in providing support for it. And 80 percent of home care services are provided by family caregivers. That is good. That is a real family value. But what are we doing to support them, and how does that fit into this whole process of a middle-class squeeze? It is an important topic that is completely underdescribed.

Let me tell you a story about a lady in Monmouth County, NJ. Her name is Bernadette Discon. She starts her 20-hour day at 3 in the morning. She works from 3 to 7 a.m. doing medical transcription in her home. She wakes her husband who has advanced dementia, and drives him to daycare. It costs $55 a day for her to do that—no support, no help at all. She also has the responsibility of taking care of her 85- and 87-year-old mother and father. Neither drives. Neither is able to take care of themselves completely. One must use a walker. Bernadette works all day after she drops off her husband. She returns home at 6 o'clock, goes back to transcription work from 7 to 11 at night, trying to make ends meet. This is the kind of story that is actually happening. Her wages are going up 1 percent on average across this country. And she is having to deal with the

kinds of family care problems we talked about that actually happen with childcare.

It is not right that America is not addressing some of these social needs while we are seeing these kinds of costs go up. That is why we on this side of the aisle—as well as Senator JOHN KERRY—are talking about a middle-class squeeze because it is real in people's lives. It is not the same as what is happening to the GDP or whether you are seeing disposable income which takes in dividends and capital gains at the high end and mushes them together and comes out with an average result.

What we need to do is look at what is actually happening in the lives of working men and women. Bernadette Discon's story is real. It shows how the pressure impacts on an individual's life. If she had kids, college tuition is going up 28 percent. She is paying 30 percent more for gas. That puts real pressure on a family.

It is time to recognize that economics is more than just statistics that are announced on Friday morning at 8:30 to say whether employment is up or down. It is the quality of life that goes with those statistics. A lot of people are feeling squeezed. As the Senator from Iowa said, a lot of families are feeling hammered.

It is time for a change, and it is time to recognize the reality of what is happening in the lives of middle-class Americans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized for up to 15 minutes.

ECONOMIC STRENGTH

Mr. BENNETT. Mr. President, I intended to come to the floor to speak about Iraq. I will do that. But I must make a comment or two about the speeches that have preceded mine with respect to the economy and what is happening.

I remember 4 years ago when the Presidential election was in full heat. One candidate said the prosperity that we have been experiencing is starting to slow down, and the economy is showing signs of being at the end of the business cycle and heading toward a recession. His political opponent said he was trying to talk down the economy for political purposes.

Well, it turns out he was right. We started a slowdown in the economy in the last two quarters of 2000. We ended up with a recession in the first three quarters of 2001. He was not trying to talk down the economy just for political purposes. He was telling the truth. This was, of course, Governor George W. Bush of Texas.

The fact is, the economy is doing extremely well, and there are those who are trying to talk it down for political purposes. This is the fact, no matter who is elected President. Whether it is George W. Bush, JOHN KERRY, Ralph Nader, or the Libertarian, or whoever else may be out there seeking the Presidency, he or she will inherit an extremely strong economy come January of 2005. And whoever it is, if it is not George W. Bush, will take credit for that strength and say: See, because I got elected everything is now wonderful.

In fact, the business cycle does not operate that way. The business cycle does not pay attention to election days; it pays attention to long-term policies put in place. We had the recession in the beginning of 2001 because of economic pressures that built up in the nineties. We have the recovery now taking hold in 2004 that will come into play through the balance of this year and strongly into next year because of policies that were put in place over the last several years. You cannot turn the economy around by a single election. You have to put policies in place and see them go forward.

It is very interesting to see those particular items President Bush's opponents are now focusing on to say this is terrible, this is terrible, this is terrible. They have changed now because the items they used to be focused on as the bellwethers of economic activity have turned positive. They cannot use the old measuring sticks they said were so important to make the case that the President's economic plan is a failure because those measuring sticks have all turned positive and now indicate the President's policies were the right ones, so they pick up new measuring sticks and find an opportunity to blame President Bush.

I am fascinated to know that the increase in property values in New Jersey in the last few years is President Bush's fault; that when the New Jersey officials increase property taxes to go along with that increase in property values, it is President Bush's fault, and so on and so on. We will hear more of that in the months to come. Let us remember that the economy responds to a whole series of pressures. No President can wave a magic wand and create jobs, as one candidate is promising to do. Let us realize on that measure, which the President's opponents no longer use, jobs are being created now at a faster rate than the President's opponent is promising he would do if he became President. If you like the rate that the Democratic presumptive nominee is proposing for job creation, you have to like the record of George W. Bush because jobs are being created at a faster rate right now than that proposed rate.

Well, Mr. President, I rose to discuss Iraq, and I will do that in the time I have remaining. How much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 10 minutes remaining.

IRAQ

Mr. BENNETT. Mr. President, there is an old statement which has become enshrined in our society now as the alcoholic's prayer. It goes like this:

> God, grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference.

I suggest that as we face the world today as the world's strongest power economically, militarily, culturally, educationally—in almost every category—we should view our responsibilities through the prism of the alcoholic's prayer: Grant us the serenity to accept the things we cannot change, the courage to change the things we can, and the wisdom to know the difference.

As I listen to the debate on Iraq, as I listen to the partisan and political comments, many of them well-meaning and properly addressed, I pray for the third leg of that saying—the wisdom to know the difference between the things we can change and the things we cannot because many of the things being raised with respect to our situation in Iraq are things we cannot change. Many of the complaints are against things we can change, but we are not because we are wallowing in complaint and self-criticism when we should be moving ahead.

Let me give you an example. The first question we need to address with respect to our military activity in Iraq and elsewhere in the region is this: Are we engaged solely in a military exercise with respect to Iraq or are we, in fact, in a world war against terrorism? We need the wisdom to get the answer to that question and know the difference because the difference is vast.

I am one who believes that we are, in fact, engaged in a worldwide war against terrorism. We must have the serenity to accept the fact that war is not going to go away if we ignore it. There are many who say there is no connection between Saddam Hussein and 9/11; therefore, we should spend all of our time going after those who dealt with 9/11 and not pay any attention to Iraq. Well, that may have been a legitimate argument prior to the time we went into Iraq, but it is now irrelevant because we are there. We are there because this body, with over 70 votes, gave the President our support for going in there; and the United Nations, by a unanimous vote in the Security Council, gave the President support to go in. This body and the United Nations overwhelmingly, along with the House of Representatives, said this is the right thing to do. We did it, and we must accept the fact that we are there, and complaining about maybe we made a mistake doesn't change the reality that we are there.

I am one who thinks we made the right decision. I am happy that David Kay, the inspector for weapons of mass destruction who went into Iraq, thinks we made the right decision. When I talk to audiences in Utah, I say: How many of you know that David Kay discovered there were no weapons of mass destruction in Iraq? Everybody raises

his hand. Then I say: How many of you know that David Kay said, based on what he discovered, that Saddam Hussein was more dangerous than we thought? Well, we didn't know that. But that is a fact that we must recognize and have the wisdom to go forward in the face of that fact.

Now, if indeed we are engaged in a worldwide war on terror, that means that our being in Iraq is not only for the sake of the Iraqis, it is for the sake of Americans. Some say we have no business being there, it is not our country, we don't care. Well, one of the realities we have to face is we are involved in the world whether we like it or not. Those on the campaign trail who are saying bring the troops home are the same people who are saying stop buying at any retailer who purchases goods abroad. Those who are saying don't have anything to do with any company that has any employees abroad do not realize the fundamental truth that America is involved in the world whether we like it or not, and we cannot withdraw. We cannot become isolationists. We cannot hide behind our two oceans militarily or economically.

The world has fundamentally changed. It fundamentally changed when the Berlin Wall came down and the ''evil empire'' ceased to exist. We are engaged around the world whether we like it or not. We must have the wisdom to recognize that fundamental truth and act accordingly; we must have the courage to act according to the truth.

I went to Iraq with the leader and my colleague Senator ENSIGN from Nevada and spent a day with the commanders there. You can say that in one day in Iraq, what do you learn? Obviously, you don't learn everything you need to in one day to know the whole situation, but you learn a whole lot more in one day in Iraq than you do sitting in America reading the newspapers.

I learned the forces that are opposed to us in Iraq have as their goal civil war and a failed state. Ultimately, what they want to have happen is for the Iraqi government that is being created now to fail. They want the Iraqis in anarchy. They want the economy destroyed. Why would they want such terrible things? They think out of that chaos they can seize power and come back into control.

Most who are involved in this insurgency are former supporters and officers of Saddam Hussein. They are hoping that through chaos they can recapture that which they could not hold in the face of the American military incursion into that country.

Grant us the wisdom to know the difference between a difficult situation and an impossible one. There are those who are saying Iraq is Bush's Vietnam. I do not think Iraq is Bush's Vietnam because Bush did not go into Iraq with the same motives that President Kennedy went into Vietnam, with the same naivete that President Kennedy and President Johnson pursued Vietnam.

We should have the courage to change the situation in Iraq by persistence, by holding the course steadily, and by recognizing that there are people in the Middle East who do want freedom.

There are pessimists who say: No, come on, BENNETT, you say to accept the things you cannot change, and one of the things you cannot change is that the Muslim people do not want freedom.

I refuse to accept that. Maybe I do not have the wisdom to recognize the difference, but I refuse to accept that.

Having visited with some of the Iraqis, I have found some who said they clearly do, most particularly the new Prime Minister Allawi. We visited with him. He struck me as a very clear-headed, careful guy who fully understood the situation.

As we were finishing our conversation, I said to him: Accept our thanks for your willingness to put your life on the line for this effort.

His life is in jeopardy. Two ministers of his government have already been assassinated, and he is clearly the chief target of those who would plunge Iraq into civil war.

I was interested in his answer. When I thanked him for his willingness to risk his life to make this government work, he looked at me and responded: It is my country.

There is an Iraqi leader willing to risk his life for his country. We have the responsibility, I believe, to do everything we can to help him.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator's time has expired.

The Senator from Ohio is recognized for 7 minutes.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. DEWINE. Mr. President, I rise today because, frankly, I am alarmed. I am alarmed by bottlenecks and barriers blocking the ability of our law enforcement and intelligence agents to fight terrorism. These bottlenecks and barriers are hampering our law enforcement's ability to use the Foreign Intelligence Surveillance Act, known as the FISA statute. In setting up surveillance against foreign powers working inside the United States, all Americans should be concerned. All Americans should be concerned, frankly, as the FISA statute is one of the most important weapons we have to fight terrorism.

Bottlenecks in the Justice Department's process of FISA applications could mean if there were a terrorist attack being planned against Americans today, we might not know about it. We would not know about it because a FISA request simply did not get processed.

We would not know it because the bureaucracy in Washington, DC, simply did not get to the application in time, did not have the time or the people or the resources to process an agent's request allowing him or her to gather that pivotal piece of intelligence, that vital piece of information that very well could be the key to preventing a terrorist attack at home. That scares me, and that should scare every Member of this Senate, and that should scare every American.

Although the FBI has been more aggressive in submitting FISA requests since the September 11 terrorist attacks, the Department of Justice has been unable to keep pace with the resulting surge in applications. Here is what the staff of the independent 9/11 Commission tells us:

> The application process . . . continues to be long and slow.

That process is still subject to ''bottlenecks.''

I was very concerned about that. So on May 20, the last FBI oversight hearing held by the Judiciary Committee, I asked Director Mueller how well he thought the FISA statute was being utilized, and this is what Director Mueller said:

> We still have concerns. There is still frustration out there in the field in certain areas where, because we have had to prioritize, we cannot get to certain requests for FISA as fast as perhaps we might have in the past.

What does this mean? Does that mean it is now taking longer post-9/11 to process certain FISA requests? If that is the case—and it is—that is a shocking statement and one that is certainly disconcerting and also downright frightening.

Later in a Judiciary Committee hearing just last week, Attorney General Ashcroft made equally troubling statements. I told him I felt it was dangerous to have to prioritize FISA requests because we can never know what kind of information we will get from these warrants. Even our best guess is still just a guess, and this is what the Attorney General said:

> . . . we are prioritizing among FISA applications . . . so that at least the most promising of those applications are the ones that would be first attended to, but frankly, it is not easy always to know where you are going to get the best intelligence, and it is not a situation where I am confident in saying, ''Oh, well, we do not have to worry about that one.''

The Attorney General was very candid. He was very honest, and he said it very well. You never can be sure where a promising lead will take you or which lead will be the one lead that uncovers the information that will save many lives. They have to prioritize. To have to prioritize, to have to pick and choose among these leads, is very risky and dangerous business. It is almost this kind of Russian roulette. We should not be in that business. We should not have to do it.

The Justice Department should be able to look at each FISA request individually and do whatever is necessary to process that request, not prioritize it, not just put it higher up in the pile, but actually process it immediately so

that the court can issue a warrant and agents can go about the business of catching terrorists.

This is a very real problem we have. So I say to the Justice Department, you have to put more resources into this. You have to do a better job. Of all that you do in the Justice Department, what could be more important? Do you need more FISA lawyers at Justice? Do you need more people in this unit? If you do, then put them there. Do you need more FISA training for agents?

Do you need more resources? How far behind are you in the FISA process? These are all questions that the Justice Department needs to answer right now. No excuses. Our national security is at stake.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 8 minutes.

IRAQ AND THE UNITED NATIONS

Mr. CHAMBLISS. Mr. President, last week the G8 summit was held in my State of Georgia, and I had the honor of serving as one of the hosts, along with our Governor, the senior Senator from Georgia, Congressman KINGSTON, and Congressman BURNS in greeting the other seven members of the G8. Together with President George W. Bush, we received the heads of state and government from Britain, Canada, Germany, France, Italy, Japan, and Russia, along with a number of other leaders of countries from the Middle East who were specially invited to the G8 summit, including the new President of Iraq, Ghazi al-Yawer.

I liked what I saw in the new President of Iraq. When I shook his hand, I shook the hand of a true Iraqi patriot who is determined to see his country become secure, stable, prosperous, and free. He insists on full sovereignty for the Iraqi people, and he is already an eloquent and tough defender of their interests.

This is why he has publicly stated, not once or twice but at almost every opportunity he gets, that the Iraqi people are grateful for America's sacrifice in freeing them from the tyranny of Saddam Hussein.

He also made it absolutely clear that his new government will continue to need the help of America and other coalition forces as it regains its strength and fends off efforts by terrorists, thugs, and foreign enemies to strangle Iraq's democracy in its cradle.

President al-Yawer has a vision for Iraq, a nation with a history stretching back beyond the storied walls of Babylon to the mists of prehistory. He sees his nation gaining a position of leadership in the Middle East and forming an example of democracy, peace, progress, and prosperity for the entire region.

He made it clear to me that Iraq very much sees the United States, the United Kingdom, and the other nations in the coalition as partners and friends that took risks to free his nation from the tyranny of Saddam Hussein and are now working together to help rebuild Iraq.

President al-Yawer is a strong pragmatic leader who wants to put his government on a sound fiscal footing. When it was proposed to destroy the Abu Ghraib prison—and I was one, frankly, who advocated that following the prisoner scandal—and to replace it, he made a poignant observation about the symbols of Saddam's barbaric treatment of his own people.

He told ABC's ''This Week'' that Saddam tortured people not just in prisons but in the basements of each and every government building, and it would not be prudent to destroy all government entities because of what happened in them. President al-Yawer said:

> We are people that need every single dollar we have in order to rebuild our country, instead of demolishing and rebuilding.

This shows a practical approach to governance which is a very welcome change to the grandiosity and extravagance which, along with cruelty and aggression, marked the reign of Saddam Hussein.

I know there is not one Senator in this Chamber who would begrudge Iraq, its people, and President al-Yawer the assistance needed to continue the transition of Iraq to full sovereignty and democracy.

In my State, we know a real friend stays with you the whole way through difficult times and does not abandon you when the going gets tough. You do not lead someone halfway home and then abandon him to the wolves. And we know those wolves are baying at the door. Al-Qaida, the Baathists, and all the enemies of democracy are already stepping up their attacks to drive us from Iraq so they can rip apart this young democracy.

Only the cowardly, only those without a vision for a newer, better Middle East would urge us to leave Iraq to its fate. History has left its inscriptions in Iraq from time immemorial, from cuneiform inscriptions on clay tablets to the stone pillar of Hammurabai. These judgments have been read and pondered by men in the centuries following their inscriptions.

In the distant future, let no traveler see inscribed in weathered stone the withering judgment of history that the United States had an opportunity to help democracy take root in the Middle East but failed to see it through. Let him read instead: They defeated the forces of darkness so the people of Iraq could live in the light.

The Senate will surely debate what our national policies and priorities should be as we seek to provide assistance for Iraq. We will debate the relative merits of the different ways we can help our friends in Iraq. In fact, this is our job, and it is our duty. But I, for one, will not entertain any policy option that would allow the people of Iraq, so recently freed from the horror of despotism, to be submerged again into the darkness by a different set of tyrants.

Let me now touch on some international aspects of the Iraqi situation. In addition to the forces from the United States, there are 14 other NATO allies with us in Iraq. Military forces from Bulgaria, the Czech Republic, Denmark, Estonia, Hungary, Italy, Latvia, Lithuania, the Netherlands, Norway, Poland, Romania, Slovakia, and the United Kingdom are all there with us. And we have great support from another 17 countries, such as Australia, Japan, New Zealand, South Korea, and the Ukraine. Now the international support helping to secure the future of Iraq is growing even more.

At the G8 summit, President Bush gained the unanimous support of the member states to help Iraq. They agreed to form a ''Partnership for Progress and a Common Future with the Region of the Broader Middle East and North Africa'' to support political, social, and economic reform in this region. This builds on President Bush's ''forward strategy of freedom'' that he announced last November.

President Bush also secured a U.N. Security Council resolution supporting the plan for handing sovereignty back to the Iraqi people. On June 8, the Security Council unanimously passed Resolution 1546 which supports free elections and authorizes a multinational security force to help stabilize the security situation in Iraq.

The U.N. has done exactly the right thing in passing Resolution 1546, and I applaud them for taking this important step. However, I would be remiss if I did not mention a subject which hinders the effectiveness of the United Nations, not only in Iraq but in its dealings around the world, and by this I mean the Oil-for-Food scandal.

The Oil-for-Food Program, established in 1995, was designed to alleviate the impact of the economic embargo on the people of Iraq, while continuing restrictions on military and technology sales. It was a humanitarian program that was supported by the United States as a way to help average Iraqi citizens get basic food and medical supplies while Saddam Hussein was still in power.

The Oil-for-Food Program was administered by the United Nations Assistant Secretary General Benon V. Sevan who oversaw sales of $111 billion worth of Iraqi oil. While under U.N. auspices, the U.S. Government Accounting Office estimates that over $10 billion of that $111 billion was stolen from the Iraqi people by Saddam's regime. While children were dying for lack of medicine or food, Saddam was importing Mercedes limousines, weapons, and building his grand palaces. Skimming off this vast amount of money involved kickbacks and bribes to a wide variety of foreign officials and businessmen.

When the new Iraqi oil ministry recently published a list of foreign officials receiving bribes, kickbacks, and

hidden oil allotments from Saddam, U.N. Assistant Secretary Sevan's name was on a list which included 11 French, 46 Russians, and many other names. These recipients of Saddam's largess were vocal opponents of freeing Iraq from Saddam's chokehold and also were bitter critics of the effects of the embargo on Saddam's regime.

It is ironic that so many of the businessmen and officials who helped skim off the money designed to buy food and medicine for the Iraqi people came from countries that complained the loudest about the U.S.-led effort to oust Saddam from power.

It is imperative that we monitor the U.N. investigation of the Oil-for-Food scandal to make sure it is thorough and transparent. Wrongdoers must be prosecuted, not simply bundled off to retirement. To do any less would greatly compromise the ability of the United Nations to operate future programs with the confidence of the world community. Paul Volcker, who was named by Secretary Kofi Annan to head the investigation into the Oil-for-Food scandal, must receive sufficient personnel, resources, and access to the relevant documents and U.N. officials to carry out his responsibility.

A failed investigation will be a bitter indictment of the United Nations and it would put it on a path that would lead to total—total—obsolescence and irrelevance. The United Nations can be a unifying force in the world, and its resolution on the future of Iraq passed last week is a positive example of this. However, it must also restore its credibility with the people of Iraq who were robbed of over $10 billion in food and medicine while the Oil for Food Program was being administered by the U.N.

It is a critical time for both the future of Iraq and the future of the U.N. In Iraq, it is time to pull together to make it a successful, stable, and democratic country. At the U.N., it is time to show the world that it can be a transparent, accountable, and efficient organization worthy of its noble charter.

We have the unique opportunity to help democracy take root in the Middle East, and we are fortunate that President Bush, Prime Minister Blair, and others have the vision and the courage to recognize this and to do something about it.

Likewise, the United Nations has an opportunity to restore our confidence in its ability to play a meaningful role on the world stage. I hope Secretary General Kofi Annan has the necessary courage to carry his investigation of the Oil for Food scandal to its necessary conclusion, regardless of how difficult it might be.

Let future generations see that neither the United States, nor the United Nations, shirked from the challenges that face us today.

Mr. President, the Oil for Food scandal cannot be taken lightly. We must take this issue seriously to restore credibility to the United Nations, which is headed down a path of total obsolescence if we do not act appropriately and if we do not get to the bottom of this particular and potentially devastating issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the Presiding Officer to advise the Senate with regard to the standing order.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Reid (for Leahy) amendment No. 3292, to amend title 18, United States Code, to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts.

Dodd further modified amendment No. 3313, to prohibit the use of contractors for certain Department of Defense activities and to establish limitations on the transfer of custody of prisoners of the Department of Defense.

Reed amendment No. 3352, to increase the end strength for active-duty personnel of the Army for fiscal year 2005 by 20,000 to 502,400.

Warner amendment No. 3450 (to amendment No. 3352), to provide for funding the increased number of Army active-duty personnel out of fiscal year 2005 supplemental funding.

Durbin amendment No. 3386, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment.

AMENDMENT NO. 3313

The PRESIDING OFFICER. The pending question is the Dodd amendment No. 3313, as further modified, on which there shall be up to 30 minutes of debate evenly divided.

Mr. WARNER. I further inquire of the Chair, at the conclusion of the vote on the Dodd amendment, the Senator from Virginia is to be recognized for the purpose of laying down an amendment; am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I be notified when 10 minutes have expired so as to leave a few minutes at the end of the debate?

The PRESIDING OFFICER. The Chair will do that.

Mr. DODD. I ask unanimous consent that my distinguished friend and colleague from South Carolina, Senator LINDSEY O. GRAHAM, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I am pleased to offer this amendment on behalf of myself, Senator GRAHAM, and Senator LEVIN this morning. We had a very good debate a few days ago about this amendment. At the suggestion of my friend, the chairman of the Armed Services Committee, we modified the amendment that is now before this body. The modification, very quickly, deletes the prohibition on using private contractors in combat situations. I will not belabor the point. There are existing statutes that provide for such restrictions, but the suggestion of the chairman was that that provision was going to be a rather complicated matter to deal with here, so we have taken it out—it is no longer part of the amendment. Instead, the amendment as modified would merely ask the Secretary of Defense to review and report to Congress on U.S. laws and policies as they relate to the use of contractors by the Defense Department and the Uniformed Services in combat operations.

What is still part of this amendment is the prohibition on using private contractors for the purposes of interrogation of prisoners. It would, however, give the President some flexibility in phasing in this prohibition by providing limited waiver authority for the use of such contractors in interrogations—both as translators and as actual interrogators. The presidential waiver for translators would be extended for 1 year, and for contractors acting solely as interrogators, the waiver would be effective for 90 days from the date of enactment of this legislation.

Why do I offer this amendment? I didn't bring charts or photographs to the floor of the events that occurred in Abu Ghraib prison late last fall or early this winter. Those photographs are very disturbing and can create their own sense of emotion. I am not interested in doing that today. But suffice it to say, there is ample evidence. So today we know at least that interrogations were conducted by private contractors hired by the Department of the Interior, of all agencies, to do interrogations, intelligence work in Iraq and maybe elsewhere, on Guantanamo or Afghanistan as well. The military believes, I believe, and I think most of us believe that this job of interrogation ought not be done by private contractors. This ought to be inherently a governmental function, and one that is not shopped out or outsourced, if you will, to others, where there is no accountability, no chain of command, no responsibility, and virtual immunity if they do anything wrong under the Uniform Code of Military Justice.

I will cite briefly memos and directives from the Department of the Army strongly urging that we not contract out this function. I strongly agree with these opinions because, first, we obviously have suffered terribly in the public relations field as a result of what happened, and we certainly know that private contracting was part of the problem; and, second, with 135,000 of our troops serving in Iraq, 20,000 serving in Afghanistan, and others serving around the globe today, we do not need to have these young men, and women in many cases, be potentially subjected to reprisals as a result of our mismanagement of the interrogation process in Iraq and possibly elsewhere.

This is an important amendment. We have all been through this recently. Again, I am not charting new ground. As we know, in fact, at hearings chaired last month by the chairman of the committee here, it was made very clear, especially in the testimony and comprehensive report of General Taguba, a number of contractors may have played significant roles as interrogators in the Abu Ghraib prison scandal. Their abusive practices have compromised our interests in Iraq, and it remains to be seen whether they will ever be held accountable. Military people can. But contractors, such as those hired by the Department of Interior, may be outside the scope of legal jurisdictions.

Again, I am not the only one who believes that intelligence functions, particularly gathering intelligence through interrogations, should be carried out by Government personnel rather than contractors.

A December 26, 2000, Department of the Army memo dealing with exempting Army intelligence functions from privatization came to the same conclusion:

> At a tactical level, the intelligence function under the operational control of the Army performed by the military . . . is an inherently Governmental function barred from private sector performance.

They are exactly right. It ought to be an inherently governmental function. Outsourcing, where there is no accountability, where you don't have any ability to subject them to criminal prosecution if they do something wrong, I think, is dangerous business. It is dangerous business in the intelligence area.

The report went on to say:

> At the operational and strategic level, the intelligence function performed by the military personnel and Federal civilian employees is a non-inherently governmental function that should be exempted from private sector performance on the basis of risk to national security from relying on contractors to perform this function.

Nor was this view limited solely to the previous administration in 2000. Thomas White, former Secretary of the Army in the current administration, also expressed his opposition to hiring contractors to question prisoners, stating in an interview that ''the basic process of interrogation . . . should be kept in-house, on the Army side.''

He is right. That is exactly where it ought to be. This is dangerous business to go through. I was stunned to learn that the Department of the Interior the was actually the agency through which some of these contracts were awarded. No one knew to whom these contractors reported, what the chain of command was, or what sort of supervision there was.

We are in a new age since 9/11. You have to get people who can speak the language, who know what they are doing. We are in the world of terrorism. The President had it right last night. There is yet no horizon in this war on terrorism. It is going to be here for a long time. We better wake up, and if we need people to speak a language then we ought to hire them and train them. It is almost 3 years since 9/11. The fact that we need to put ads in the Washington Post to find people who can speak Arabic is ridiculous. We ought to get about the business of hiring people and training them. We need interrogators. We need the human intelligence capacity. I am all for fancy satellites and technology, but if you don't have people on the ground who can talk to these people and understand what they are saying, your intelligence is going to suffer.

Again, this practice of hiring contractors to perform interrogations is simply bad business. It goes beyond just the ugly photographs and the outrageous behavior that has cost us terribly in Iraq and elsewhere in our efforts at winning the hearts and minds of the Iraqi people.

And my amendment is limited in scope. It merely says that with respect to interrogations, the Department of Defense would have to hire people within the governmental framework to do the job.

On the translations, I will give you a year. You can use people outside if you want, but after a year let's get some people within the operations themselves who know what they are doing. The other sections of my amendment deal briefly with the transfer of prisoners.

In September, it will be 3 years since the horrific events of 9/11. It is high time that the administration moved forward to build a capacity, in-house, to ensure that our intelligence gathering capacity, including interrogation personnel, is adequate to meet the threats that we confront.

Giving the administration unlimited access to contractors by extending the waiver for interrogators beyond 90 days does not serve our national interest.

I would remind my fellow colleagues that the world has changed dramatically over the past three years. Part of the current mission in Iraq is a larger and absolutely critical mission that we are going to be confronting every single day for the foreseeable future in Afghanistan, Saudi Arabia, Pakistan, and Spain—and the list goes on and on—and elsewhere around the globe. In order to be prepared for that war, we must have within our own governmental structure the expertise to garner intelligence, including intelligence gleaned through interrogations.

The notion that we can simply outsource this critical responsibility when terrorist incidents spike the demand for interrogation skills by our Government seems to be the height of irresponsibility.

We were sidetracked a bit during the debate on Monday. As I said earlier, the chairman made a very good point in the area of combat missions. It is not a clear line. So we put that aside. But on interrogations, this is inherently a governmental function and we shouldn't be contracting out that function.

That is my point. I hope my colleagues will agree with us. I know the administration has some problems with it, but the fact is, let us get about the business of doing our job here and not endangering our own troops—which is what I worry about. The bottom line, one that I believe I share with every parent, sibling, or child who has a relative or a friend serving in these dangerous zones. I don't want our brave men and women, if they are apprehended, to go through what we saw happen to some of these Iraqi prisoners. These abuses put Americans at risk, in my view, if we don't get this business straight. I am determined to see that we fix this situation.

I hope my colleagues will support this. Let me withhold the remainder of my time.

Mr. WARNER. Mr. President, will the Senator engage in a colloquy with me?

Mr. DODD. Certainly.

Mr. WARNER. First, I would like to lay the predicate. The Senator has brought forth an important concept. He asked for a study. I am prepared to support the study. But I urge my colleague, as I did the other day on another part of the amendment—and he accepted my advice and took that out—we have to look at this interrogation section. There is a trigger mechanism, if you look at the amendment, which says in 90 days every one of these contractors has to discontinue their work.

That is what it says. Am I not correct?

Mr. DODD. The Senator is correct—90 days I think after the——

Mr. WARNER. It is signed into law.

Mr. DODD. Just interrogations.

Mr. WARNER. Mr. President, that cripples America's intelligence system in the middle of a war in Afghanistan, in Iraq, and our operations in Guantanamo.

How can the Senate suddenly withdraw our U.S. military interrogation base in the middle of a war in 90 days? There is no way in the world the military—there is a greater burden on the Army—can hire and train in this short period of time all the replacements that would be required if the Senator's amendment became law.

Mr. DODD. Mr. President, first, I don't believe necessarily that the military doesn't have the capacity to do

this. But the idea that the Department of the Interior is contracting out to private firms to conduct this function, when we have seen already the results when this matter gets out of hand because you have rogue elements doing it—we have suffered terribly as a result of this tremendous abuse that has gone on. I don't buy the idea that we can't get this straight. I think we can get it straight. There are plenty of people within the military services who can perform this function. And I don't put the same limitations on translators. I am giving a year to get that in shape.

The idea that somehow the military shouldn't be doing this—I didn't make this up; this isn't made out of whole cloth. The military themselves, going back several years, has said that this function should not be performed by outside contractors.

In fact, the most recent former Secretary of the Army said this.

Mr. WARNER. That has been stated twice by the Senator. Those are facts and valid opinions. But I am looking at the very practical effect—that under this amendment when the President's signature goes on the bill, in 90 days we are out of business.

Let me point out a few statistics. Take Guantanamo Bay: Right now we have 140 translators of which over 100 are contractors.

Mr. DODD. Translators are not an issue.

Mr. WARNER. Nevertheless, eventually they have to be taken inhouse.

Mr. DODD. That would be over a year from today.

Mr. WARNER. I understand that. That is the very point I wish to make. You give us a year in which to cure that problem, but then you go to the analysts and interrogators, 60 analysts of which 35 are contractors.

Mr. DODD. Interrogators.

Mr. WARNER. They are part of the system—40 interrogators of which 20 are contractors. In 90 days, 50 percent roughly of the operation in Guantanamo ceases to function.

I will tell you that practically there is no way in the world the military can go out and hire and recruit and put into uniform or civilian capacity that number of individuals.

Mr. DODD. I don't ascribe to that. First, the analysts are not included; it is just the interrogators.

The idea that you are going to have people who are immune from prosecution, accountable to no one, with little supervision, or literally none in many cases, I think is a far more inherently dangerous problem than the difficulty in finding 30 or 40 people within the military structure to perform interrogations.

I would point out this job posting, which is from the Web site of CACI International, one of the companies that does interrogations for the Department of Defense. This is what it says you ought to be: The position requires a bachelor's degree, or equivalent, of 6 or 7 years of related experience—whatever that is—preferably in the intelligence field; requires a clearance, strong writing and briefing skills, with competency in automation research in basic software.

This is hardly the job description of someone who is so unique that we can't find the personnel within our own uniformed services.

Mr. WARNER. Mr. President, there is a problem. The Senator has identified it. I acknowledge it. I do not think it is as great as the Senator portrays it, but nevertheless there is a problem.

What I am saying to my colleagues who are momentarily going to be asked to vote is that we cannot in any way possible solve it in the 90-day period, and we are in the middle of a war. The Senator is going to basically dismantle 50 or more percent of our intelligence interrogation, and it is from these interrogations that our troops today are getting valuable information to protect their lives on the battlefronts primarily of Afghanistan and Iraq.

I say to Members, when you come and are asked to vote, if you vote in support of this amendment, then I simply say you are pulling the plug on our intelligence system and the interrogation system and severely dealing them a crippling blow. It is as simple as that.

Does my colleague acknowledge that in 90 days the interrogation is out of business? Am I correct?

Mr. DODD. No. They are not out of business at all. The interrogations would have to be done by governmental authorities. You can bring back military people to do it. There are plenty of guys who can do it, if we put them back on active duty. This is not an overly burdensome problem.

The question is, here we are debating the Defense authorization bill and we have been confronted which a huge problem that galvanized the world's attention only a few days ago. We know that part of the problem was because we had people who were not being held accountable and who have little or no supervision. At least we know that much already. In the midst of this debate, should we step up and try to do something about that problem?

If the argument is that we have no in-house capacity to fill 40 or 50 slots in Guantanamo, or maybe an equal amount in Iraq with 135,000 U.S. forces there and 20,000 in Afghanistan, the idea that we can't find people within the military services to fill 40 or 50 slots, then I don't accept it as a legitimate argument against this amendment.

They may want to keep contracting and have these contractors go through the Department of the Interior, but that is wrong, in my view, and I think it is dangerous. The military has said—I am not opposed to what their thinking is—categorically it ought not be done there. It is dangerous. It causes us problems and it is causing our military personnel problems. It ought to be changed.

I don't buy for a single second, with thousands of people serving in that theater, the idea we can't find people within our own ranks to do this job.

Mr. WARNER. The simple reply is, you can't take an individual, no matter how many degrees they might have, in 90 days, or less, and train them to be an interrogator. Most of the contractors now performing this work are former U.S. military individuals—people who served in the interrogation field, primarily during the cold war when the U.S. military had a significant requirement for interrogators, both in the European theater and the Korean theater.

I see my colleague from Alabama. Does my colleague seek recognition?

Mr. SESSIONS. I would like to speak on this subject.

Mr. WARNER. I yield the floor.

Mr. SESSIONS. Mr. President, I share Chairman WARNER's view.

Mr. WARNER. I yield such time as my colleague requires. Would the Chair advise as to the time on both sides?

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Virginia has 6 minutes. The Senator from Connecticut has 5 minutes 23 seconds.

Mr. WARNER. I need a minute or two to wrap up.

Mr. SESSIONS. I will try to keep it to 2 minutes.

I share the concerns of the Senator from Virginia, the chairman of the Armed Services Committee. I note there is nothing inherently wrong with using trained, skilled, and capable contractors. If there is a problem, it may be that we did not supervise contractors well and maybe did not select them well.

To prohibit the utilization of contractors to do interrogations in life-and-death situations is a mistake. We may need the very best interrogator in the United States of America to interrogate someone who has the ability to give information that could save thousands of lives in this country. To say that we have to use the military personnel I believe is clearly wrong. A young MP who is just out of training school should not be, in my view, as good an interrogator as a retired MP who worked in the detective division of the New York Police Department or a retired CIA agent or retired military person who did interrogations for years and had experience and maybe even knows the language.

We cannot have everyone in the military perfectly trained to do all these things and speak every language in the world and do these interrogations.

This would be a terrible deal. We should not agree to this. We should not limit the military from using contract employees. If we need to control them better and do a better job of supervising it, I would support that.

I don't want to use any more time. I know others want to speak.

I yield the floor.

Mr. WARNER. I simply say to colleagues we are putting on them a considerable burden in a very short period of time.

I ask a very clear question of the proponent of this amendment, the Senator

from Connecticut. In 90 days we have to dismantle a great deal of our interrogation—in Afghanistan, in Iraq and Guantanamo Bay—right as this country is in the middle of combat operations, right at a time when men and women of our Armed Forces, of our coalition forces, are at great personal risk.

A few interrogators at this point in time are implicated in the tragic events in the prison situation. As the Senator well knows, the Armed Services Committee is probing that as quickly as we can given the limited time we have had. This bill has been on the floor of the Senate, but we had to temporarily set aside our work. We hope, once I consult with the leadership and members of the committee, to resume that. The point being, this is not the time to put a 90-day jackhammer that severs our ability to continue our interrogation of prisoners with the use of contractors. Several of them did perform in a manner that, hopefully, they can be brought to account in the Abu Ghraib situation, but hundreds of other contractors are carefully and professionally doing their work in interrogation. This amendment would stop that in 90 days.

I see the Senator from Colorado.

Mr. ALLARD. I would like to be recognized to speak against the amendment.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I join my colleague from Virginia and my colleague from Alabama in opposing the Dodd amendment.

I will take one part of our interrogating process and look at Guantanamo Bay. We have 140 translators, of which 105 are contractors; 60 analysts there, of which 35 are contractors; and 45 interrogators, of which 20 are contractors. If we pass this amendment, we shut off the interrogation process and we lose the opportunity to gather vital information that could be valuable to what we are doing in Iraq. We would lose 50 percent of intelligence. Generally, these individuals are well qualified, and they have been carefully vetted as contractors.

I join my colleagues in opposing the Dodd amendment.

Mr. WARNER. I will reserve 1 minute to follow the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. First of all, let me respond to my friend from Colorado. My amendment grants the President waiver authority in the case of translators for over a year.

We are about to graduate from the training school for Army intelligence in Arizona this year 539 interrogators within the Army. Here we are talking about 20 or 40 positions in Guantanamo Bay of interrogators—but we have 539 people this year who are going to graduate within the Army as interrogators. We know that at least some of the private contractors hired through Department of Interior contracts for interrogations are not well trained. A bachelor of arts degree will get you a job as interrogator. This situation is a mess. We know it is a mess. We have 539 people—double the number from last year—graduating this year. Why are we continuing a system that does not work where the Army themselves have said, stop it? We need to listen and stop it.

One of the most outrageous examples is the effort in Iraq. An outrageous situation occurred just days ago because the system has fallen apart. Do not tell me we will lose our capacity to interrogate people. That is hyperbole when you have 539 people about to graduate in addition to the ones we have in uniform today to do the job.

We know that having private contractors participate in interrogations is a problem. The Army has said that it is a problem. The most recent Secretary of the Army said it is a problem, and to stop it. The question is, will we do it here, today? Do we understand what happened here just a few days ago? Do we understand the problems it has caused?

A recent public opinion poll by the Coalition Provisional Authority in Iraq shows us that a majority of Iraqis believe that all Americans conduct themselves in the way they saw in the photographs taken at Abu Ghraib. But that is not us.

I know people in uniform do a better job than someone who has been plucked off the street under a contract by the Department of Interior to do the job of intelligence. This is intelligence capacity. You do not outsource and farm that out to an unaccountable contractor with little or no experience in interrogations. Don't Members understand what happened here a few days ago, how much trouble our country is in?

We have 539 people about to graduate in the military services to conduct interrogations, and you are telling me we do not have enough and we cannot train people in uniform to do the job? I don't believe it. The American people do not, the international community does not.

This is not a complicated amendment. Let's wake up.

The PRESIDING OFFICER. The Senator has 2 minutes 49 seconds remaining.

Mr. DODD. I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, I am voting today in opposition to Senator DODD's amendment, No. 3313 that would prohibit the Department of Defense from using contractors to carry out certain activities, mostly related to interrogations. While I believe that this amendment would not solve the problems so vividly illustrated by the Abu Ghraib prison abuses, there should be no doubt that the issue it seeks to address is extremely serious. We are all concerned about the grave misconduct of anyone involved in interrogations of Iraqi detainees. The individuals who committed atrocities have marred the reputation of our country and have made the lives of American personnel in Iraq more dangerous and difficult.

It is essential to ensure that there is proper oversight when employing contractors in interrogations or any other military-related function. There must also be clear rules for bringing to justice those who violate our laws or treaty obligations. And, ultimately, I believe that interrogations and other functions should be conducted by uniformed personnel, working directly for the United States government and subject to the web of rules that governs military personnel.

While this should be our ultimate goal, I am concerned that this amendment would bring to a halt a number of critical functions currently carried out by contractors. The reality is that the U.S. armed forces are currently dependent on contractor support to carry out their missions, including interrogations. The Army now has approximately 500 military interrogators, a number far below the number needed to meet our requirements in Afghanistan, Iraq, and elsewhere. Over the next five years, the number of trained interrogators will grow to over 1,200, but in the meantime, we rely on contractors to make up the difference. In addition, over 50 percent of interrogator, interpreter, and analyst positions at Guantanamo Bay are currently filled by contractors. This amendment would cripple intelligence gathering operations there.

The abuses at Abu Ghraib prison did not occur only at the hands of civilian contractors—soldiers have been implicated as well. It is critical to ensure accountability for everyone who may have been involved, and prevent any reoccurrence of such abuses. Throughout the hearings in the Senate Armed Services Committee and in my review of the annexes and documents in the Taguba Investigation, I have observed a lack of sustained focus on the basic principles of leadership at Abu Ghraib. While I believe that immediately prohibiting the use of contractors is not the way to proceed, we need to look comprehensively at a number of facets of our military operations, including the long-term use of contractors, failures of leadership, and the overall size of our armed forces.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I ask my colleague a question. This graduating class to which the Senator refers, am I not correct it is enlisted and 18- to 20-year- olds?

Mr. DODD. All I have here is that the Pentagon has asked the school to boost its output dramatically and expects to graduate 539 interrogators this year, up from 237 in 2003.

Mr. WARNER. I say to my colleague, there are basically young enlisted men with no field experience, in no way a

comparison to the seasoned cadre of contractors now performing this invaluable service.

I wish to move to table, but I will not do it until my colleague has the opportunity.

Mr. DODD. Does my colleague from South Carolina want to take 15 seconds?

Mr. GRAHAM of South Carolina. I appreciate the Senator yielding.

I saw Senator DODD this morning at breakfast. I am sympathetic to what he was trying to do. I said, put me down. I did not look at the substance. I apologize. The Senator is absolutely right in what he is trying to do.

I agree with the chairman that these people coming out of school are not ready to perform this work. But I promise the Senator from Connecticut you will have a Republican ally if we have a transition period that is more reasonable—if not on this bill, we will do it some other time. It bothers me greatly that our interrogation system is being outsourced. We do not know who is interrogating the people in prison because we do not know who they are and who they answer to.

I apologize to the Senator from Connecticut for not being able to live up to my word. I told him I would support the amendment, but I did not look at the amendment. I will never do that again. However, I do want to help—if not on this bill, we will do it soon.

Mr. DODD. Mr. President, I thank my colleague.

I yield 30 seconds to my distinguished ranking member.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend the Senator from Connecticut. I think this amendment is essential if we are going to make a statement about who is going to do the interrogating of prisoners. We are bound by treaties, and when these treaties are ignored, this country is damaged.

We cannot have contractors where there is no accountability. You can fire a governmental employee. You can demote a governmental employee. You can discharge someone who is in the military who is doing the interrogating. When a contractor does this, there is no accountability except criminal law with all of its difficulties.

An Army memorandum dated December 26, 2000, that is still in effect today, made the express determination that gathering tactical intelligence is an inherently governmental function. According to our law, ''Contracts shall not be used for the performance of inherently governmental functions.''

We must make a critically important statement here today: We are going to hold people accountable for the kind of abuse that occurred. The only way you can do that is by having governmental employees—either uniformed or civilian—carry out these interrogations.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Now, Mr. President, I inquire of the desk, I think the other side has slightly gone over their time. I wonder if we might accommodate the chairman of the Intelligence Committee and ask that he be permitted to speak for 2 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have no objection to that. We have a little more time on our side. But I ask unanimous consent that Senator DODD have 2 minutes to close following Senator ROBERTS.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object, and that the Senator from Virginia be recognized for the purpose of the tabling motion following Senator DODD.

Mr. REID. Of course.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia will have 2 minutes and the Senator from Connecticut will have 2 minutes.

Mr. WARNER. Mr. President, I yield my 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I thank my distinguished chairman.

I rise to join the senior Senator from Virginia in opposing the Dodd amendment. I agree with the concern raised by the Dodd amendment, but let me point out that, as far as I am aware, no committee has held a hearing on how to lessen our reliance on contractors. Our armed services and our other agencies do rely very heavily on contractors.

The distinguished chairman has held three open hearings in regard to all of the incarceration problems and the problems that have been so heavily publicized. We have had three hearings in the Intelligence Committee that have been closed. We are going to follow up with a report by General Fay and others. In the Intelligence Committee, we have asked for the legal memoranda from the Justice Department on this whole issue.

I think this amendment attempts to prejudge the important work we would like to do on issues that are related to contractors and also detainees; yes, the military police; yes, the military intelligence.

Now, let's not forget that while some contractors—or for that matter, MPs, or military personnel—have been highly publicized in actions that nobody wants to see, contractors are saving lives right now in Iraq and Afghanistan, and they are giving their lives in the war on terrorism. So the problems that have come to our attention, it seems to me, my colleagues, are not necessarily inherent simply to contracting, but they are resulting from very poor management and also supervision.

We can address the problems as raised by the distinguished Senator from Connecticut, but we ought to do it in the right way. I do not think the Senate should act hastily on an important area. We are on top of it. We are conducting oversight.

So I must oppose this amendment and urge other Members to do the same.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I think I have made the case. I will just summarize it for you here.

Since September 11, we have been in a different world. Developing our capacity and our ability to conduct interrogations, to be able to understand the languages of other peoples so we understand what is going on, is critically important.

And our ability to have inhouse, within our military services, the capacity to conduct one of the most important functions—that is, to conduct interrogations and gather intelligence that protects our men and women in uniform—should not be outsourced to people whose major qualification is a bachelor of arts degree.

These young people who are being trained in the military may be young, but they are trained interrogators. That is what we ought to be doing. We have 539 new ones, in addition to the ones who exist today, coming out of school soon. We ought to be saying—as the military has asked us now for 4 years—do not contract this out. This administration's most recent Secretary of the Army said: Do not contract this out.

This ought to be an inherently governmental function: to conduct interrogations, to gather intelligence, to protect our men and women in uniform, and to advance our cause. The idea, somehow, that this is going to slow us down or make us incapable of doing our job is foolishness. We all know what is going to happen. If we have a partisan debate here that rejects the idea that we ought to have an in-house capacity in intelligence areas, then the Army, or some in the military, will read that as a signal that they can continue doing what they are doing.

That is dangerous, in my view, dangerous when you have a Department of the Interior agency actually doing the contracting out to private companies, where the desired capability, according to their own Web site, is not much more than a bachelor of arts degree. That is it.

It is the 21st century. The war is on terrorism. Let's wake up. I urge my colleagues to support the amendment and reject the tabling motion.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I simply say, this is not a vote or debate on a partisan issue. We both feel this issue has to be corrected. I simply plead for

reasonable time within which to do it, hopefully, to give greater security to our fighting men and women.

Mr. President, I move to table the amendment.

Mr. DODD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CORNYN). Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—54

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (FL)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Rockefeller
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Chafee	Hagel	Smith
Chambliss	Hatch	Snowe
Cochran	Hutchison	Specter
Coleman	Inhofe	Stevens
Collins	Kyl	Sununu
Cornyn	Lott	Talent
Craig	Lugar	Thomas
Crapo	McCain	Voinovich
DeWine	McConnell	Warner

NAYS—43

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Feingold	Lincoln
Biden	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden
Dayton	Lautenberg	
Dodd	Leahy	

NOT VOTING—3

Bingaman	Edwards	Kerry

The motion was agreed to.

Mr. WARNER. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I will suggest the absence of a quorum. I wish to advise Senators we are making progress. We are working out a UC request right now, and I hope to resume the bill very shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. WARNER. Madam President, the UC request is still under consideration. Very clear and forthright efforts are going forward on both sides. But in order to proceed on the bill, I ask unanimous consent that we turn to the Senator from Illinois, who will speak for a few minutes, and then it is my understanding a voice vote will be acceptable on his amendment. Following the adoption of that amendment, we will turn to the distinguished Senator from Kentucky for the McConnell-Bunning amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3386

Mr. DURBIN. Madam President, I ask at this point for consideration of amendment No. 3386.

The PRESIDING OFFICER. That amendment is pending.

Mr. DURBIN. Thank you very much, Madam President.

Madam President, I thank the chairman of the committee, Senator WARNER of Virginia, and my close friend and colleague on the Democratic side, Senator CARL LEVIN of Michigan, for their support of this amendment.

I think this amendment comes at the right moment in history. All across the world, many who are our friends and those who are not question whether the United States is abandoning its time-honored commitment to oppose torture, cruel, inhuman, and degrading treatment of detainees and prisoners.

The scandal at Abu Ghraib touched the heart of every American because it sent entirely the wrong message about the values of this country. We are not a country that will look the other way when it comes to this sort of horrific treatment. This amendment is a reaffirmation of our statement as Americans that we are committed, as every administration has been going back to President Abraham Lincoln, to oppose torture and the kind of inhuman conduct and treatment that we saw at Abu Ghraib prison.

I think this amendment also makes it clear to the Department of Defense that we want them to take this seriously, to establish guidelines consistent with our Constitution, with the laws of the land, and with the treaties that have been signed by Presidents, Democrat and Republican alike. These guidelines will be clear signals for every member of the U.S. military in terms of acceptable conduct when it comes to the interrogation and treatment of detainees.

The third step in this amendment says that any violations that are noted by the Department of Defense will be reported to Congress consistent with national security. Should there be a circumstance where classified or secret information would jeopardize the security of this country, it can be reported in that context to the appropriate committee and in no way diminish the security of this Nation.

I hope this overwhelming support for this amendment at this moment in time will say to those of us across America who feel it is important to send this message, and to those listening around the world, that the United States still stands strong by its commitments to oppose torture and the cruel and inhuman and degrading treatment of prisoners and detainees.

I thank the Senator from Virginia for his cooperation in this regard. I thank the Senator from Michigan for cosponsoring this along with Senator SPECTER of Pennsylvania.

Madam President, I ask that the Senate, at this point, accept the amendment which I have offered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, the Senator from Illinois and myself and others were here well into the night last night as the Senator gave a very detailed dissertation on this subject.

I find the amendment basically recites this administration's policy. The unambiguous policy of this and preceding administrations is to comply with and enforce this Nation's obligations under international law. These obligations are embedded in American domestic law, including the Uniform Code of Military Justice, which explicitly incorporates the law of war.

President Bush has recently stated:

> We are a nation of law. We adhere to laws.

Secretary Rumsfeld, on June 13, stated:

> There is no wiggle room in my mind or the President's mind about torture. That is not something that's permitted under the Geneva Conventions or the laws of the United States. . . . It's required that people in custody be treated in a humane way.

So I think it is very appropriate that we do the codification, as the Senator recommends. I am hopeful that in the conference status Senator LEVIN and I can work to incorporate basically this amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first, let me congratulate our good friend from Illinois for his leadership and determination to offer an amendment which will reflect our best instincts, our best values and our laws, both domestic and international laws to which we have subscribed. This amendment reaffirms the military's high standards, which are embodied in the Army's own field manual. Army regulations, which are cited in the ''findings'' sections of this amendment, explicitly require that all prisoners will receive humane treatment. They prohibit, among other things, torture and all cruel and degrading treatment.

The high standards in the manual, which are reinforced by this amendment, protect American soldiers. It is not just the right thing; it is not just

representing our own values. This protects American soldiers. If we lower our standards, it is only going to encourage others to engage in the torture or mistreatment of American prisoners of war in enemy custody.

The reaffirmation of our commitment to treat detainees humanely preserves our ability to demand full protections for American prisoners of war. This amendment is a clear way of reaffirming to the American people and to the world that the United States recognizes it is legally bound by international agreements. Indeed, we have promoted, we have been the leader in producing many of those international agreements relative to torture. We are going to comply with those obligations. There is one rule that applies to all. It applies to us. It applies to every other country. And we accept—indeed, we promote and proclaim—the wisdom of that rule.

I congratulate the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I ask unanimous consent that Senators LEVIN, SPECTER, FEINSTEIN, LEAHY, and KENNEDY be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 3386.

The amendment (No. 3386) was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3438

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING], for Mr. MCCONNELL, for himself and Mr. BUNNING, Mr. BINGAMAN, Mr. GRASSLEY, Mrs. CLINTON, Mr. DOMENICI, Ms. CANTWELL, Mr. VOINOVICH, Mr. SCHUMER, Mr. ALEXANDER, Mr. KENNEDY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. DEWINE, and Mr. TALENT, proposes an amendment numbered 3438.

Mr. BUNNING. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BUNNING. Madam President, I rise today to offer an amendment cosponsored by Senator BINGAMAN and 16 other Senators including Senators GRASSLEY, CLINTON, DOMENICI, KENNEDY, STEVENS, CANTWELL, VOINOVICH, SCHUMER, ALEXANDER, MURKOWSKI, MURRAY, DEWINE, TALENT, DURBIN, BOND, and FEINSTEIN.

This amendment will fix the problems with the Department of Energy's compensation program for sick and injured cold-war workers at Energy sites throughout the country.

Since the end of World War II, workers at Department of Energy sites across the country helped our Nation face threats from our enemies by creating and maintaining our Nation's nuclear weapons.

Many of these workers sacrificed their health and safety and were exposed to harms unknown at the time in their work to preserve our freedoms.

In 2000, as part of the DOD authorization bill, Congress enacted the Energy Employee Occupational Illness Compensation Act.

This act was intended to give timely and reasonable compensation to Department of Energy employees suffering from diseases caused by working in the nuclear weapons program.

This program was split into two parts.

Subtitle B of the program is run by the Department of Labor for those workers with diseases from radiation and beryllium; and

Subtitle D of the program is currently run by the Department of Energy for those workers made ill from toxic substances.

Subtitle B of the program has been running well. The Department of Labor has completely processed more than 95 percent of the 54,000 cases it has received.

Subtitle D of the program, however, is completely broken and the Department of Energy has done an abysmal job running it.

For almost 4 years now, the Department of Energy has failed to process and pay claims of workers who were made ill by their work.

The Energy Committee has held 3 hearings on this issue which revealed the DOE's failure at administering this program. I should note that both the chairman and the ranking member of the Energy Committee are cosponsors of this amendment.

GAO has also studied this issue and found the DOE's performance subpar.

More than 24,000 workers or survivors have filed claims with the DOE for compensation for their illnesses.

DOE has now received $95 million for this program from Congress and only four claims have been paid.

Further, the program under the DOE has an uncertain process for compensating workers. Even if a worker is found to have an eligible claim, DOE has not identified an entity for all claimants who will pay those claims and serve as a ''willing payer.''

DOE's miserable job with this program is particularly troubling because of the Kentucky workers at the Paducah gaseous diffusion plant, where the uranium shipped to sites throughout the country was refined.

Under DOE's program, out of almost 3,000 former Paducah workers who have filed for compensation for their illnesses. Zero workers have received any compensation for their illnesses.

The Department of Energy's current track record for slow processing of claims makes me believe that it lacks the capability to handle the compensation program effectively.

The amendment transfers subtitle D claims processing operations from the Department of Energy to the Department of Labor, who is currently handling thousands of similar claims under subtitle B of the program.

The Department of Labor is one of the largest and most efficient claims operations in the country.

Payments will be made directly by DOL to the worker or survivor. This solves the current issue of no willing payer for all eligible claims.

The funds continue to be subject to annual appropriations as they currently are today.

CBO anticipates only minor costs associated with the transfer of the program to DOL.

This amendment fulfills the promise that Congress made to DOE workers in 2000 to provide payment and benefits for their illnesses due to toxic substances.

Many of these workers are dying and should not have to wait any longer for the Department of Energy to get its act together to process and pay the valid claims in a timely manner.

The current DOE program's lackluster performance is not what Congress envisioned when it passed this act in 2000.

It is imperative that we protect those workers who risked their health and safety to help us win the cold war.

I urge you to support this amendment and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I rise to speak in strong support of the Bunning-Bingaman amendment, of which I am a proud cosponsor.

At the outset, I want to thank Senator BUNNING and Senator BINGAMAN for their leadership and hard work on this amendment, and in bringing this to the floor. I also want to thank Senator GRASSLEY, Senator DOMENICI and the many other members who have worked on this amendment. The full list of cosponsors is a long, bipartisan list: BUNNING, BINGAMAN, GRASSLEY, CLINTON, DOMENICI, CANTWELL, VOINOVICH, SCHUMER, ALEXANDER, KENNEDY, MURKOWSKI, MURRAY, DEWINE, FEINSTEIN, TALENT, DURBIN, STEVENS, and BOND.

The purpose of our amendment is simple: We're here to help fulfill the promise that Congress made 4 years ago to some of our Nation's cold warriors. In 2000, thanks to the leadership of Senators VOINOVICH, KENNEDY, and many others, Congress passed the Energy Employees Occupational Illness Compensation Act as part of the FY

2001 Defense Authorization Act. That law was both a recognition of the Government's responsibility for exposing energy program workers to deadly radiation, and a promise that the Government would provide timely assistance and compensation to workers who were harmed by exposure to radiation and other toxic substances.

I think it is worth briefly revisiting some of the findings of that 2000 act, because I think it sets the context for this amendment. The findings of that act stated:

Since the inception of the nuclear weapons program and for several decades afterwards, a large number of nuclear weapons workers at sites of the Department of Energy and at sites of vendors who supplied the Cold War effort were put at risk without their knowledge and consent for reasons that, documents reveal, were driven by fears of adverse publicity, liability, and employee demands for hazardous duty pay.

Many previously secret records have documented unmonitored exposures to radiation and beryllium and continuing problems at these sites across the Nation, at which the Department of Energy and its predecessor agencies have been, since World War II, self-regulating with respect to nuclear safety and occupational safety and health. No other hazardous Federal activity has been permitted to be carried out under such sweeping powers of self-regulation.

The policy of the Department of Energy has been to litigate occupational illness claims, which has deterred workers from filing workers' compensation claims and has imposed major financial burdens for such employees who have sought compensation. Contractors of the Department have been held harmless and the employees have been denied workers' compensation coverage for occupational disease.

Over the past 20 years, more than two dozen scientific findings have emerged that indicate that certain of such employees are experiencing increased risks of dying from cancer and non-malignant diseases. Several of these studies have also established a correlation between excess diseases and exposure to radiation and beryllium.

To ensure fairness and equity, the civilian men and women who, over the past 50 years, have performed duties uniquely related to the nuclear weapons production and testing programs of the Department of Energy and its predecessor agencies should have efficient, uniform, and adequate compensation for beryllium-related health conditions and radiation-related health conditions.

Although the findings of the 2000 act still stand, its promise of efficient, uniform and adequate compensation simply has not been met. That is what this amendment is about—Congress needs to make good on the promise it made in 2000.

Before I describe the amendment in detail, I want to make it clear that this amendment is a compromise. It does not contain everything that I would have liked to include, and I know that it reflects compromises on both sides. But there is no question in my mind that it will help workers in New York, and virtually everywhere else that our nuclear weapons production facility workers are found, and therefore I strongly support it.

As Senator BUNNING has described, Subtitle D of the 2000 act required DOE to review evidence to determine if a worker's illness was caused by exposure to toxic substances in their DOE work. Claimants with positive findings from the DOE physician panels were to be assisted by DOE in filing for and receiving State workers' compensation benefits due to them.

Processing of claims by DOE has been extremely slow. In 4 years, only 3 percent of claims have been processed by DOE. Eighty percent of subtitle D claims are languishing in the DOE system at the very earliest stages of development or with no work begun on them at all. There have been three Senate hearings in recent months examining the DOE's failed operation of Subtitle D of the EEOICPA program. GAO has studied DOE's efforts under subtitle D and found significant problems with both DOE's claims review process and DOE's ability to pay valid claims.

The bottom line is that after 4 years and more than $90 million in administrative funding, DOE admits that they have only provided compensation to four claimants of the more than 24,000 that have applied for assistance under the Subtitle D program. Our amendment addresses this problem by transferring claims processing operations to the Department of Labor, one of the largest and most efficient claims operations in the country. DOL is already processing thousands of similar claims under Subtitle B of EEOICPA and has already processed more than 90 percent of their claims. Our amendment assures that benefits due to workers or survivors will be paid according to the State laws covering the worker or survivor. The payments will be made directly by DOL to the worker or survivor. Benefits will be paid with appropriated funds, just as they would have been had DOE performed as expected. The Department of Labor's operation of this program is likely to be significantly more efficient and less expensive than DOE's current claims processing operation.

Although I would have preferred to see a uniform benefit established under subtitle D in this amendment, I believe that moving the subtitle D program to the Department of Labor will be a very significant improvement.

The amendment also corrects a significant problem associated with subtitle B of the 2000 Act. Under subtitle B of the Energy Employees Occupational Illness Compensation Program Act, workers are eligible for a payment of $150,000 and medical coverage for expenses associated with the treatment of certain illnesses resulting from exposure to radiation at atomic weapons plants. This part program is administered by the Department of Labor, and though its administration has been far better than the subtitle D program administered by DOE, it has had its share of problems as well. One of the problems is that workers who became sick from working in contaminated atomic weapons plants after weapons production ceased are not eligible to apply for benefits under subtitle B of the Act.

Recognizing that this was a potential oversight in the 2000 act, Congress directed the National Institute of Occupational Safety and Health to study the issue and report back to Congress. In 2003, NIOSH finished its study, entitled ''Report on Residual Radioactive and Beryllium Contamination in Atomic Weapons Employer and Beryllium Vendor Facilities.'' The report concluded potential for significant residual radioactive contamination existed in many of these plants for years and decades after weapons production ceased, posing a risk of radiation-related cancers or disease to unknowing workers.

In fact, the report found that: 97, 44 percent, covered facilities have potential for significant residual radioactive contamination outside of the periods in which atomic weapons-related production occurred; 88, 40 percent, such facilities have little potential for significant residual radioactive contamination outside of the periods in which atomic weapons-related production occurred; and 34, 16 percent, such facilities have insufficient information to make a determination.

In my State of New York, 16 of 31 covered facilities were found to have the potential for significant contamination, 10 had little potential for significant contamination, and 5 of the 31 had insufficient information. In other words, more than half of the New York Atomic Weapons Employer Facilities in New York were contaminated after weapons production ceased. As a result, workers were exposed to radiation, and deserve to be eligible for benefits under EEOICPA.

But this is not just a New York issue. The 97 facilities where NIOSH found the potential for significant residual radioactive contamination outside the periods during which weapons-related production are spread across 16 States. I want to briefly list these States for the benefit of my colleagues. They are California, Connecticut, Florida, Illinois, Indiana, Kansas, Massachusetts, Maryland, Michigan, Missoiuri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Texas.

Once the NIOSH report came out, it was clear that the law needed to be changed. The fact is that many of the facilities remained contaminated after weapons production ceased, and workers continued to be unwittingly exposed to radiation. That is why I introduced the Residual Radioactive Contamination Compensation Act, RRCCA, earlier this year, and I am pleased that with some modifications, it has been incorporated into this amendment.

The most important change that this provision will accomplish is that it will provide eligibility for benefits under subtitle B to workers who were employed at facilities where NIOSH has found potential for significant radioactive contamination. This just means that these workers will be eligible to

apply for benefits like the workers who were exposed to radiation during weapons production. We are not automatically granting them benefits. We are just saying that they ought to be eligible to apply. And that is only fair.

In addition to expanding eligibility to workers employed at facilities where NIOSH has found potential for significant radioactive contamination, the amendment would require NIOSH to update the list of such facilities by 2006. This addresses the fact that there was insufficient information for NIOSH to characterize a number of sites in its 2003 report.

As I pointed out earlier, fixing this so-called ''residual contamination'' oversight in the 2000 act will be very helpful to a small number of deserving workers in my State, particularly in western New York. And it will be similarly helpful to workers in the other 15 States that I mentioned.

Due to the efforts of Senator SCHUMER, the amendment would also establish a center in western New York to help people navigate the claim system. I want to applaud his work on this provision which will also be extremely helpful to New Yorkers. These are steps forward, and paired with the changes to the workers compensation portion of the program that Senator BUNNING has outlined, represent significant improvements.

Before I close, I want to make several additional points.

First, this is a modest amendment. The Congressional Budget Office estimates that making workers who were exposed to residual contamination eligible for benefits under subtitle B of the act, as I have described, will cost only $2.9 million per year over 10 years. The changes to subtitle D, the workers' compensation component of the program, are also relatively inexpensive. CBO anticipates the program will need an appropriation of an additional $2 million in FY 05 from the current program to pay for these changes, and that annual costs in future years will be on the order of $25 million per year annual costs. This is very close to the current scored amount for this portion of the program. All of these costs are fully offset in the amendment. This is a very small price to pay to help fulfill the promise that Congress made to weapons workers in 2000. It is not everything that I and others involved in the negotiations would have wanted, but it will make a significant difference.

Finally, I note that last week we celebrated the life and service of Ronald Reagan. Many of the tributes to President Reagan focused on his role in ending the cold war. Ronald Reagan was a commander in chief in that war—one of the last in a line of commanders in chief that stretched back to the end of World War II. As we all know, the cold war was a different kind of war—one that relied on deterrence, the credible threat of a massive retaliatory attack by the U.S. In a very real sense, the foot soldiers of that cold war included the men and women who toiled in the weapons production related facilities run by DOE and its contractors. These people were true cold war heroes, working in hazardous conditions, and in some cases, paid a heavy price in terms of their health. We owe it to them to fix the glaring flaws in the Energy Employees Occupational Illness Compensation Program.

As the Senator from Kentucky explained, the purpose of the program in 2000 was to remedy and provide compensation for workers who had been the warriors during the cold war. It was not a hot war. It was a cold war.

One of the commitments made by our Nation in passing the legislation in 2000 was to recognize our responsibility to workers who were exposed to radiation and to help them with medical and living expenses all these years later. One of the problems is that workers who became sick from working in contaminated atomic weapons plants or their contractors, after weapons production ceased, were not eligible to apply for benefits under the act. Recognizing that this was a potential oversight, the Congress directed the National Institute of Occupational Safety and Health to study this issue and report back to Congress.

In 2003, NIOSH—the national institute—submitted a report entitled ''Report on Residual Radioactive and Beryllium Contamination in Atomic Weapons Employer and Beryllium Vendor Facilities.'' That is a long way of describing that the NIOSH investigators found that some of the plants people have worked in were contaminated for years after the actual weapons production ceased or after the actual components for the weapons production in the contractor's plant ceased. The report concluded there was a potential for significant residual radioactive contamination that posed a risk of radiation-related cancers or diseases to unknowing workers. In fact, the report found that 44 percent or 97 of the facilities that fell into the category of being potentially residually contaminated did have evidence of such contamination; 88 such facilities have little potential for such contamination; 34 had insufficient information on which to base a determination.

In New York, 16 of 31 facilities that could have been considered residually contaminated were found to have significant contamination. I am not satisfied with the NIOSH findings because I think we now know more about where to look for and how to discover this residual contamination. The bottom line is that, even under the NIOSH report of 2003, we had workers in New York who were found to have been exposed to radiation and beryllium because of the work they did for our country through the contracting in order to produce the weapons needed in the cold war.

This is not just a New York issue, obviously. There are 16 States where this residual contamination has been found. So out of the NIOSH report it became clear that we needed to amend the law. I introduced the Residual Radioactive Contamination Compensation Act. I am pleased that, with some modifications, it has been incorporated into this amendment.

The most important change is we now will provide eligibility for benefits under subtitle B of the original act to workers who were employed at facilities where NIOSH has found potential for significant radioactive contamination. That means they will be able to apply for benefits just like the workers who we know were directly exposed to radiation during weapons production. They are not automatically eligible for benefits, but they now have a right to apply. That is only fair.

In addition to expanding eligibility for workers employed at facilities where the potential for residual contamination was discovered, my amendment requires NIOSH to update the list of such facilities by 2006. I have met with these men who worked in these plants. They came home from World War II—the vast majority of them—and they went to work in the industrial plants that were all over western New York in the late 1940s and 1950s, and they worked hard. They have distinct memories of rolling big coils of uranium around the floor of the plants, and uranium residue was falling into the fires of the steel mills. It is a very touching experience because they did what they were supposed to do. Many of them fought in Europe, in the Pacific, and came home after the war to lead their lives, raise their families. They worked hard for years, and now they are sick. So we need to fix this.

I am grateful for this amendment moving us forward. I am going to focus hard on NIOSH as they continue their work to meet the 2006 update deadline that this amendment imposes because I think there are other facilities—certainly in my State—where it is indisputable that they were contaminated by residual radioactive materials.

We are also establishing a center in western New York to help people navigate the claims system. As the Senator from Kentucky pointed out, the DOE has not done the job. We need to have a place where all of these workers, many of whom are in their seventies and eighties now, can go and get the information about this new law and they can get their claims expedited accordingly.

This is a modest amendment. The CBO estimates that making workers who were exposed to residual contamination eligible for benefits under subtitle B of the act will cost only $2.9 million per year over 10 years. The changes to subtitle D, the workers' compensation component of the program, are also relatively inexpensive. CBO anticipates the program will need an appropriation of an additional $2 million in fiscal year 2005 from the current program to pay for these changes, and that annual costs in future years

will be on the order of $25 million per year. This is very close to the current scoring amount for this portion of the program. The difference is we are not only going to do the program better and take care of more people, these costs are fully offset in this amendment.

Madam President, this is a very small price to pay to fulfill the promise Congress made to weapons workers in 2000 and that Americans made to these men over decades as they labored in these facilities. It is obviously not everything some of us would wish for, but it is a very honorable compromise, and the sponsors of the bill have worked very hard to bring it about.

So I hope that, in the wake of dedicating the World War II Memorial and the week of honors to President Reagan and his legacy, we recall that during the cold war we relied on deterrence. What that meant is we had to have a credible threat of a massive retaliatory attack by the United States against the Soviet Union in the event that they were to even consider acting against us.

In a very real sense, the soldiers of the cold war were also the men and women who toiled in these weapons production facilities run by DOE and the contractors, many of whom were in western New York and throughout my State. These were people who worked in hazardous conditions; many have paid a heavy price in terms of their health.

I am very pleased that today we are taking a step to fix the glaring flaws in the Energy Employees Occupational Illness Compensation Program, and I urge my colleagues to join in supporting the Bunning-Bingaman amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York, Mr. SCHUMER, is recognized.

Mr. SCHUMER. Madam President, I want to join all of my colleagues, including my good friend, the Senator from Kentucky, my colleague and friend, Senator CLINTON, Senator BINGAMAN, and so many others who are in support of this bipartisan amendment, which would not only improve many of the unsuccessful provisions of the Energy Employees Occupational Illness Compensation Program Act, but it would also address critical areas of concern important to workers that were not properly dealt with in the original legislation.

For decades during the cold war, thousands of New Yorkers labored in hazardous conditions at DOE and contractor facilities, unaware of the considerable health risks. Workers at these facilities handled high levels of radioactive materials and were responsible for helping create the huge nuclear arsenal that served as a deterrent to the Soviet Union during the cold war.

Although Government scientists knew of the dangers posed by radiation, workers were given little or no protection, and many have been diagnosed with cancer.

During the cold war, New York alone was home to 36 former atomic weapon employer sites and DOE cleanup facilities. In the 8 counties of western New York—in the Buffalo and Niagara region, where this is particularly a problem—there were 14 facilities that participated in the manufacture of America's nuclear arsenal.

Despite having one of the greatest concentrations of facilities involved in nuclear weapons production-related activities in the Nation, western New York continued to be seriously underserved by the Energy Employees Occupational Illness Compensation Program, not just for a year or two but for many years. Many constituents from my State went unaware of the program entirely or were not provided with sufficient information about how the claimant process worked. In the opinion of my constituents, this program was completely ineffectual in its ability to address their questions and concerns properly.

Despite statutory language in section 3631 of the original legislation, which required DOL to provide outreach and claimant assistance, the only assistance applicants received when applying for this program was from a traveling resource center that came to the area too infrequently to serve the public.

Today I am happy to say that the Bunning-Bingaman amendment would substantially improve the effectiveness of outreach and claimant assistance to applicants from the New York region by recognizing the need for a resource center in western New York. This is something we have been pushing for years. This would be a substantial step toward improving services for workers in my home State.

Upon successful passage of this legislation, I look forward to working with the newly established Office of the Ombudsman to locate a resource center in the western New York region. A permanent facility would not only increase awareness of the program among residents but would help serve workers throughout the claimant process.

Furthermore, this legislation would repair the definition of an ''atomic weapons employee'' to assure that those exposed to residual radiation after a facility finished processing radioactive materials for nuclear weapons programs would qualify to apply for benefits—a truly fundamental expansion on which my esteemed colleague Senator CLINTON has been a leader.

In a report released at the end of 2003, NIOSH identified 86 atomic weapons employer facilities across the country where there was a potential for significant residual radiation outside the period in which weapons-related production occurred, and 14 of those are in my home State of New York.

Passage of this new legislation would provide a significant opportunity for sick nuclear workers from across New York and the country who were formally excluded from this program to receive the compensation they deserve.

While the act was enacted to provide compensation to employees of the Department of Energy and its contractors who were exposed to radiation or other toxic substances, a significant portion of this program utterly failed—utterly failed—in its obligations to thousands of Americans who dutifully acted as soldiers on the front lines of the nuclear arms race.

After 4 years and more than $90 million in administrative funding, DOE admits they have only provided compensation to 4 claimants of the more than 24,000 who have applied for assistance under subtitle D. There have been multiple Senate hearings examining the failures of this program and particularly of subtitle D. GAO has studied DOE's efforts under subtitle D and found significant problems with both DOE's claims review process and the ability to pay valid claims.

Today we owe it to those who sacrificed their health and safety for the security of America to pass the Bunning-Bingaman amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I express my appreciation to the Senator from Kentucky, and the Senator from New Mexico as well. The Senator from Kentucky has worked diligently, consistently, persistently, and made certain that this amendment saw the light of day.

I thank the Senator from Virginia for permitting it to be considered in this way.

I only have a brief comment to make, but this is an important comment. As the Senator from New York said, this amendment will fulfill the intent of the act in 2000 which intended to provide for our cold-war veterans, our sick workers. The Senator from Alaska, who is in the chair, has been one of those who have spoken eloquently about this in the Energy Committee on which we both serve.

Over 24,000 of our Nation's cold-war veterans have filed claims with the Department of Energy, and over 18,000 of those claims are still being developed or awaiting development. There are more than 4,800 cold-war veterans in Tennessee who are sick and are getting the runaround from the Department of Energy. It needs to stop. We should be treating our cold-war veterans with the same respect they have treated our country.

As of March 18 of this year, 60 percent of these cases were still awaiting development—60 percent. The Department of Energy has had, as has been said already, nearly 4 years to get its act together and has yet to do so. This amendment will transfer the responsibility of claims from the Department of Energy to the Department of Labor. The Department of Labor currently

runs several workers' compensation programs and is well equipped to handle those claims. The changes will provide uniform medical benefits and allow a large number of claimants in the process to receive compensation much sooner.

I am proud to be a cosponsor of the amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Madam President, I rise today to join my colleagues, Senators BUNNING and BINGAMAN and the other supporters of this legislation, to support this very important amendment. This amendment will improve an existing program which provides financial and medical compensation to workers who were made ill as a result of their employment at the Department of Energy's nuclear weapons facilities.

Since the end of World War II, at facilities all across America, tens of thousands of dedicated men and women in our civilian Federal and contract workforce helped keep our military fully supplied and our Nation fully prepared to face any threat from our adversaries around the world by developing and building our Nation's nuclear weapons stockpile. The success of these workers in meeting this challenge is measured in part with the end of the cold war and the collapse of the Soviet Union. However, for many of these workers, their success came at a very high price. They sacrificed their health and even their lives, in many instances without knowing the risks they were facing, to preserve our liberty. I will not go into the details, but I saw the memoranda and all the other items they should have had available to them but which were kept from them. What happened to these workers was worse than what happened to the workers in the movie ''Erin Brockovich'' that many of us saw.

I believe these men and women have paid a high price for our freedom, and in their time of need this Nation has a moral obligation to provide some financial and medical assistance to these cold-war veterans. That is what they are—cold-war veterans.

To meet that goal, I worked with a bipartisan group of my colleagues 4 years ago to create a program that would provide financial compensation to Department of Energy contract workers whose impaired health has been caused by exposure to beryllium, radiation, or other hazardous substances. I have been pleased to be involved with this program from the beginning. In fact, the passage and creation of this legislation in 2000 was one of my proudest moments as a Member of the Senate. It took monumental efforts by a bipartisan group of my colleagues, many of whom cosponsored this amendment we are debating today. I said at that time the Holy Spirit was working because, without divine help, this would never ever have gotten done.

Under the current program, the Energy Employees Occupational Illness Compensation Program, workers suffering from beryllium disease, silicosis, or cancer due to radiation exposure because of their work in our national security programs are eligible for Federal compensation. The Department of Labor was assigned primary responsibility for administration and adjudicating these claims under part B of this act.

Under part D, the Department of Energy would assist claimants filing for compensation through State workers' compensation programs if a physicians panel found an occupational illness caused by chemical or other toxic exposure at a DOE site. Claims were not to be contested by contractors, and any compensation was to be paid by the Department of Energy.

This compromise package that was ultimately agreed to by Congress and signed into law was not what I originally supported in 2000. I introduced a bill which called for a Federal program administered entirely by the Department of Labor, but during congressional negotiations on the language authorizing the program, I agreed to this multiagency concept in order to reach a compromise creating the program. The fact is, if we did not agree to that, we would not have gotten a bill out of conference. So I agreed to it.

I have been pleased with the excellent program the Labor Department is running. Over 3 years after enactment, we have seen over 13,000 claimants receive compensation from DOL. On the other hand, I am becoming extremely frustrated with DOE's administration of part D of the program. More important than my frustration, however, is the fact that claimants who deserve answers and compensation are experiencing endless delays. I visited with some of those people. They cannot understand why this bureaucracy in Washington does not work.

While over 24,000 claims have been received by the Department, only 646 final decisions have been sent to claimants. Think about that: Out of 24,000, only 646 have been sent to claimants.

Even more shocking is that only four claimants have any compensation at all from the DOE portion of this program. I have always been skeptical of the capability of the Department of Energy to administer this because of their lack of experience in administering workers' compensation programs. I could have told them that when we started out, but no one would have listened.

Additionally, I was concerned about the role of State workers' compensation programs outlined in part D. As a former Governor, I was doubtful that a Federal program such as this would be able to work in each of the individual State programs.

There are two inherent problems within the existing program: continued delays and slowness in processing claims, and the so-called willing payer issue.

This amendment addresses both of those issues. In order to speed up claims handling and processing, this amendment moves administration of part D from the DOE to the DOL. I believe DOL is better suited to administering this program because they have significant experience in administering workers' compensation programs, including part B of the program.

This amendment also addresses the willing payer issue, another very important aspect. Under the current program, I understand it will be difficult for DOE to fulfill congressional intent in Ohio because there is not a contractor in place at the sites that can be compelled to pay the claims. They are no longer there. Many other workers nationwide are facing the same shortcomings in this program. In fact, the Ohio Bureau of Works' Compensation has tried unsuccessfully to work with DOE to ensure that this program works in Ohio.

The current administrator of the Ohio Bureau of Workers' Compensation is probably the best public administrator I have met in my life. He started with me when I was Lieutenant Governor, worked with me when I was mayor, and came to work with me as Governor of the State of Ohio. I would like to just quote from his letter to me and Senator DEWINE. He stated:

> I understand DOL's and DOE's concern with this amendment, but BWC must ultimately look at what is best for the customer, in this case, the injured workers; consequently, we feel the changes proposed by the amendment will result in positive developments. Since the program's inception, DOE has failed (for whatever reasons, some of which may not be the department's fault) to process its claims in a timely fashion. A recent General Accounting Office report stated that DOE had only processed 6 percent of the 23,000 received claims. Clearly, the current system is not working. We believe throwing more money into a system that does not work will only compound the problem.

The amendment we are considering today enjoys broad bipartisan support in the Senate. It is also supported by many State compensation systems and local labor organizations, including the Ohio Bureau of Workers' Compensation, the PACE locals at Mound and Portsmouth, and the Fernald Atomic Trades and Labor Council in my home State of Ohio.

I urge my colleagues to vote in favor of this amendment. It simply fulfills the promise that we made to these veterans of the cold war. We have kept them waiting too long.

I ask unanimous consent to have this letter from Administrator Conrad printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE OHIO BUREAU
OF WORKERS COMPENSATION,
Columbus, OH, June 7, 2004.

Hon. MIKE DEWINE,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. GEORGE VOINOVICH,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DEWINE AND SENATOR VOINOVICH: I write today to express the Ohio Bureau of Workers' Compensation's (BWC's) support for the pending Bunning-Bingaman amendment to reform portions of the Energy Employees Occupational Illness Compensation Act of 2000. As you know, portions of this program, especially Subtitle D, have failed to process claims and assist injured workers with receiving their rightful benefits in a timely fashion. As stated in our previous letters, the Department of Labor (DOL) has found success implementing its part of the program (Subtitle B); however, the Department of Energy (DOE) has not met with the same results. Over the past two years, BWC has actively sought a positive solution to this problem with DOE and we are prepared to support the Bunning-Bingaman amendment to help move this program in the right direction.

I understand DOL's and DOE's concern with this amendment, but BWC must ultimately look at what is best for the customer, in this case the injured workers; consequently, we feel the changes proposed by the amendment will result in positive developments. Since the program's inception, DOE has failed (for whatever reasons, some of which may not be the department's fault) to process its claims in a timely fashion. A recent General Accounting Office report stated that DOE had only processed 6% of the 23,000 received claims. Clearly, the current system is not working. We believe throwing more money into a system that does not work will only compound the problem.

We believe the Bunning-Bingaman amendment will reform the system to speed up claims processing and benefit payouts. It will allow states to serve as consultants to advise the federal government on the benefit levels eligible injured workers should be receiving. In effect, the federal workers' compensation program outlined in this amendment offers fewer limitations and easier access to benefits for the injured workers of Ohio than did the previous system that was in place. The states will serve as guides to the federal government to help determine the correct benefit levels.

In addition, by shifting causation determinations and case development from DOE to DOL, it removes subjecting similar injured workers from having to go through multiple federal and state jurisdictions for approval. Injured workers receiving Subtitle B benefits are determined to be eligible for Subtitle D benefits, which will speed up claims and benefit distributions since 50% of all Subtitle D claims have already been awarded Subtitle B benefits.

In sum, we believe the amendment will help steamline the program and take the burden off the states while speeding up the process for the injured workers. It is our belief that the Bunning-Bingaman amendment will help resolve this problem and help bring relief to injured and ill Ohio workers and their families. As has been our history with this program, BWC stands ready to assist the process in any way possible.

Sincerely,

JAMES CONRAD,
Administrator/CEO.

Mr. GRASSLEY. Madam President, I rise to speak in support of the amendment offered by Senators BUNNING and BINGAMAN. This amendment, of which I am a cosponsor, makes significant and much needed reforms to the Energy Employees Occupational Illness Compensation Act of 2000.

Congress passed this law to provide timely, uniform, and adequate compensation to sick nuclear workers. These Department of Energy employees or contractors were made sick from exposure to toxic substances or radiation while assembling our nuclear deterrent. This law required DOE to help these former workers compile employment and medical records to assist in the filing of State workers compensation.

There are two facilities in Iowa that are covered under this law. Over 600 claims have been filed by former workers of the Iowa Army Ammunition Plant located in Middletown, IA. These patriots served on our Nation's homefront during the cold war, putting themselves at risk building nuclear weapons. The least our Government can do is provide the necessary assistance to ensure that those eligible for compensation receive it.

However, one thing has been made perfectly clear. The Department of Energy does not have the capability or expertise to fulfill their responsibilities under this act. I began to question DOE's ability to process these claims in April of 2003, when I noticed they had received over 15,000 claims and only a handful had been fully processed.

I questioned Secretary Abraham on this point. I followed up with Under Secretary Card a few months later. I was told on both occasions that all DOE needed was more time and more money. I was skeptical, to say the least.

Then, last fall, the General Accounting Office confirmed my suspicions. Their conclusions, in a report I had requested, were stunning. Of the more than 19,000 claims filed with the Department of Energy, only 6 percent had been completely processed, and over 50 percent remained untouched. Even more, GAO concluded that more money alone would not result in more timely processing.

Becasue it was clear that DOE had a substandard operation in place to implement this important program, Senator LISA MURKOWSKI and I took action. We offered and had accepted an amendment to the Energy and Water appropriations bill to transfer the claims processing from DOE to the Department of Labor.

We knew at the time that DOE was not on the right track, and that DOL had the experience and expertise to handle this compensation program. While we were successful in the Senate, the Department of Energy and their contract had their way, and our amendment was stripped in conference.

Since that time, I have testified before Chairman DOMENICI's Energy Committee twice to outline the abysmal performance of the Department of Energy. It was at the second hearing where I shared information I had uncovered about the contractor that DOE had hired to do this work.

While only 6 percent of claims had been fully processed, DOE believed it was perfectly reasonable to pay the program manager of their hired contractor $401,000 annually. The head of DOE's contractor costs the taxpayer more than the salaries of Secretary Abraham and Secretary Chao combined.

Today's bipartisan amendment is a comprehensive approach to finally put an end to the perpetual delay in claims processing and address the lack of a willing payor to pay valid claims in Iowa.

It is my understanding that the administration opposes our amendment because they believe it will create an unworkable process and delay the processing of claims. This is precisely the same position they held last October when Senator MURKOWSKI and I pushed similar reforms.

It is unfortunate that the administration hasn't realized during this time that the unworkable process and unnecessary delay is not a result of our efforts here in Congress but the result of 4 years of ineffectiveness at the Department of Energy. This amendment simply makes the original law work.

I hope my colleagues can support our efforts on behalf of the thousands of sick nuclear workers across the Nation. Through this amendment, these sick workers will finally receive the compensation they so richly deserve.

Mr. BINGAMAN. Madam President, I rise today to offer my support for the amendment offered by my colleague, Senator BUNNING, to reform the Energy Employees Occupational Illness Compensation Act.

The purpose of this act was straightforward when enacted in 2000: to compensate sick workers at Department of Energy facilities, and industrial sites, who performed work involving radioactive and hazardous materials associated with nuclear weapons. More importantly, it was to compensate them quickly, and with a minimal amount of bureaucracy, given that many of these workers are dying.

Unfortunately, 4 years later that does not appear to be the case for subtitle D of this act, as administered by the Department of Energy, which handles claims that are to go forward to State compensation boards.

Let me cite some statistics that indicate to me that there appears to be a structural problem with subtitle D. As of June 4, 2004, the Department of Energy has 24,354 cases pending to determine whether working at a DOE facility was the cause of their illness. Yet as of June 4, 2004, only four of the cases have received a favorable determination from State Worker Compensation Boards. The amount paid out for these four cases is approximately $139,000.

Over the past 4 years, the administration of this program has cost the taxpayers $95 million.

The Energy and Natural Resources Committee has held two hearings on this program to explore solutions to the problems we face under subtitle D. The first hearing was on November 23, 2003. It had seven witnesses, including Senator GRASSLEY and Under Secretary Card from the Department of Energy. The other five witnesses were experts in the field of injured worker compensation; all had worked on this program since its inception. At that hearing, the expert witnesses confirmed there were major problems processing the claims under subtitle D. Dr. David Michaels, the former DOE official who developed this program, told the committee that subtitle D, as administered by the DOE, was a failure.

The second hearing on March 30, 2004, included Senator GRASSLEY, DOE Under Secretary Card and officials from the GAO, Department of Labor and NIOSH. At this hearing, the DOE proposed several legislative changes to the processing of the claims, such as reducing the physician panels from 3 to 1 and increasing the pay for qualified physicians. In my opinion, these administration proposals fell short, yet these proposals are in the current Department of Defense bill the Senate is debating.

Because of these two hearings, Senator BUNNING and I are now proposing this amendment, which we believe will help fix some of the problems found under subtitle D. The amendment has undergone many hours of bipartisan staff discussion over several months.

The most significant element of the amendment is the shift of subtitle D from the DOE to the Department of Labor, which specializes in handling such claims. If the claim is found to have been caused by employment at a DOE site, the Department of Labor then pays the sick worker his lost wages at the time of his employment plus medical expenses, according to their State compensation formula at the time of employment.

This payment scheme is a positive step forward. It eliminates an adversarial adjudication in front of a State compensation board, which in some cases, even if positively adjudicated, will have no willing payer as the contractor has long since vanished. Sick workers who performed inherently unique governmental functions associated with nuclear weapons should not be subjected to this adversarial adjudication process.

I believe the remedy that Professor John Burton of Rutgers University proposed is the better approach. Professor Burton is the Nation's leading expert on workers compensation, and he has given advice on this legislation since it was first enacted. At the March 30 hearing, Professor Burton recommended a single formula modified according to the degree of disability. In this way, the Department of Labor is not tied to each State's compensation formula as in this amendment.

Nevertheless, I think this amendment reflects a bipartisan effort, and in doing so, compromises had to be struck by all parties.

I also ask unanimous consent to have printed in the RECORD a letter in support of the New Mexico Workers' Compensation Administration for fixing the program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW MEXICO WORKERS' COMPENSATION COMMISSION STATEMENT ABOUT EEOICPA REFORM—JUNE 2, 2004

The NM Workers' Compensation Administration strongly supports concrete steps by the federal government to provide meaningful implementation of the EEOICPA. By meaningful implementation, we mean federal monetary compensation and medical care for workers made ill by exposure to radiation and toxic substances while performing jobs related to atomic weapon production and Cold War efforts. Our state, along with others, dedicated its most valuable resource, human lives, to the strengthening of the nation. New Mexico citizens are proud to have served. Many dignified New Mexicans, including our friend and beloved state Representative Ray Ruiz, have tragically passed away from work related illnesses while waiting for the federal government to fulfill promises contained in the Act. These fine people are patriots that were seriously injured while working on federal priorities. They are still waiting for federal help. The NM Workers' Compensation Administration stands ready and willing to assist in any way it can, and certainly will not stand in the way of federal authorities finally fulfilling the promises made to these citizens.

Sincerely,

ALAN M. VARELA,
Director, New Mexico Workers' Compensation Administration.

Mr. BINGAMAN. Let me note that even though this amendment proposes to move subtitle D from the DOE to the Department of Labor, the DOE will continue to play a vital role in locating and interpreting the workers' employment and medical records. This move will let the DOE concentrate solely on performing this important function without trying to administer a large claims processing program.

I conclude by thanking those who have contributed to this effort. I thank Ms. Kate Kimpan from Senator BUNNING's Office, who has provided neverending technical support on a complicated subject. I also thank Mr. Richard Miller of the Government Accountability Project, Mr. Jay Powers of the AFL–CIO, and others of the building trade unions. Richard Miller and Jay Powers have worked to help sick atomic workers since this program was initiated, and have continued to make Congress aware of its failings 4 years later; we owe both these gentlemen a debt of gratitude.

These workers and their families have suffered the pain of serious illnesses for so long—we should not make them suffer the indignity of trying to navigate Government red tape a moment longer. I urge my colleagues to support this amendment.

Mr. REID. Madam President, on June 10, the Las Vegas Review-Journal published an editorial about the program my friend from Kentucky seeks to fix. As the editorial noted, this program was created to compensate our cold war veterans who are sick from their work at nuclear facilities around the country, including the Nevada Test Site, during the cold war.

These brave men and women were not told that they were exposed to dangerous levels of radiation and other toxic substances. In fact, for years the Department of Energy knew the deadly effects of these substances but still resisted workers' attempts to seek compensation for their work-related illnesses.

The Energy Employees Occupational Illness Compensation Program, which began in 2000, was created to remedy the decades of stonewalling and deception by the DOE. When we worked to create this program in 2000, we put part of it under the auspices of the Department of Energy. We intended to provide relief to sick workers and their widows who are strapped with medical bills. As of April, only one worker in Washington State had received any compensation through the DOE program. Three more workers have now received compensation.

More than 24,000 workers have filed claims with the Department of Energy. After 4 years and about $74 million worth of work, exactly four of these workers have received compensation. The Review-Journal calls the DOE's program a ''boondoggle.'' I couldn't agree more. Many of these workers, if not most of them, are very sick. They are aging. If they have to wait much longer, they may not live long enough to receive the compensation they deserve. That isn't fair, and it isn't right.

My colleague from Kentucky is offering his amendment because these workers' illnesses will not wait for the DOE to fix this program on its own. This program has another serious problem that his amendment seeks to correct: some workers who file claims and deserve compensation have no entity to pay their claims.

In Nevada, for example, 482 workers have filed for compensation. If they were exposed to toxic substances at the Nevada Test Site before 1993, they would have no so-called ''willing payer'' of workers' compensation.

For 3 years, Congress has asked the Department of Energy to suggest a way to fix this problem. The best answer we have received is, we are looking into it.

In its last hearing on this program, the DOE said it had no responsibility to help workers through their State workers' compensation programs. The bureaucrats at DOE are missing the point of this program. Yes, DOE is finally beginning to admit to some of its workers that their jobs made them sick. That is a step in the right direction. But admitting responsibility for

these illnesses, and then declining to offer any help, is not in the spirit or the letter of the law we passed 4 years ago.

The Department of Energy was given a huge opportunity with this program to rectify its previous mistakes that caused these workers to become sick. I am very disappointed with what the DOE has done with that opportunity, but I am not surprised considering how they have botched our nuclear waste program.

I hope our action today will move us toward fulfilling the promises we made to these workers. Just as we would never leave a soldier on the battlefield, we must not leave behind these Americans whose work in the nuclear industry helped our Nation win the cold war.

Mr. KENNEDY. Madam. President, I support Senator BUNNING's amendment to improve the Energy Employees Occupational Illness Compensation Program Act. The program, for all its growing pains, is becoming a long-awaited success. It has now provided benefits to over ten thousand employees or their surviving family members.

Four years ago, I joined my colleagues Senators Thompson, BINGAMAN, and VOINOVICH to pass this program to compensate workers for the dangers they have faced from chemicals and radioactivity in their work in producing nuclear weapons many years ago. Many of them suffered debilitating and often fatal illnesses directly related to their exposure. The health and safety hazards they faced were not as well known as they are today, but in many cases, the government decided that production of the weapons was more important than the safety and health of the workers.

The compensation program was intended to right this wrong, and many of its goals have been achieved in the past 4 years. The Department of Labor has processed over 30,000 out of 55,000 claims, and made payments of over $870 million in compensation and medical bills.

Unfortunately, not all parts of the program have been as successful. The part handled by the Department of Energy is not functioning as it should. The Department has moved very slowly. After four years and more than $90 million in administrative costs, 80 percent of the 24,000 claims the Department has received have still not been fully processed.

Even workers who do make it through the system are not being paid. Because the payments are funneled through State workers' compensation systems, even persons who we acknowledge were made sick by their work have to fight for the compensation they are owed. At this point, we know of only four claims that have been paid.

This is why this amendment is needed, and I commend Senator BUNNING and Senator BINGAMAN for their leadership in developing this bi-partisan solution. I also commend the many other colleagues on both sides of the aisle who have been working on this amendment for several months in order to guarantee that the relief the workers and their families deserve as soon as possible.

The amendment will transfer the administration of claims from the Department of Energy to the Department of Labor, which will pay these claims directly. This step will make it substantially easier for thousands of deserving workers, retirees, and surviving family members to obtain the compensation and medical care they are owed. The amendment also expands eligibility to include workers exposed to residual contamination. I commend Senator CLINTON for her work on this specific problem, which is critical to many workers in Western New York.

The use of a State workers' compensation formula to calculate benefits should not be taken as a model in other cases. This was a unique compromise we reached in order to achieve timely payment of these claims, and is in no way an endorsement of a change in the benefit levels or structure of other Federal workers' compensation programs.

Clearly, we should be using a uniform Federal compensation formula to compensate these workers, because they were performing work for the federal government. A uniform formula is in keeping with the structure of other federal workers' compensation programs. It would also be far easier for the Department of Labor to administer, and I know the Department shares my views on this point.

In addition, other aspects of the compensation program deserve our concern. Thousands of workers are seeking entrance into a Special Exposure Cohort under another part of the program, and the rules for admission have just been issued by the National Institute of Occupational Safety and Health. Also, the dose reconstruction estimates still await processing for some workers in the building and construction trades. I urge the Institute to give high priority to this task so that further legislation will not be necessary.

This amendment is a needed step to carry out the compensation program. I welcome this bipartisan compromise and I urge my colleagues to approve the amendment.

Ms. MURKOWSKI. Mr. President, it is an honor to come to the floor today to speak in support of this amendment to the Department of Defense Authorization Act on behalf of nuclear workers. I am proud to cosponsor this amendment. Why am I am honored to speak on behalf of this amendment? Simply put, because it is the right thing to do. The nuclear workers who will receive compensation under this amendment helped America win the cold war. They worked in our nuclear research facilities, our weapons facilities or, in the case of Alaskans, at the site of the largest nuclear test our country ever conducted. It was through their hard work and courage that our Nation was able to triumph in the most significant challenge we faced during the second half of the 20th century.

Will the compensation to be provided nuclear workers under this amendment really repay our Nation's debt to them? Of course not. It will not come close. Sylvia Carlsson is the widow of an Amchitka worker. Her husband was a mine shaft workers on the Project Cannikin at the Amchitka, AK, nuclear test site in 1971. Project Cannikin was our Nation's largest nuclear bomb test. He was exposed to ionizing radiation during the course of his employment. He died of colon cancer before his 41st birthday. Bev Aleck and Nancy Woodward-Tremper are two of a number of other Alaskan widows with similar stories. Other former Amchitka workers, such as Andrew Akula, are still living but are suffering from life-threatening conditions. Ask any of these Alaskans whether this compensation will make up for lives lot or a lifetime of debilitating disease. It wouldn't. However, the compensation they have earned will at least show that a grateful Nation acknowledges their contribution to our national security.

Let me briefly talk about what this amendment actually does. First, and perhaps most importantly, my colleagues should recognize that this amendment does nothing more than cure deficiencies in Energy Employees Occupational Illnesses Compensation Program Act that Congress passed in 2000. It is narrow, focused legislation. It certain is no brand new entitlement program.

The Energy Employees Act of 2000 established two programs for compensating nuclear workers. The program under subtitle B of the act is administered by the Department of Labor. Numerous claims have been processed and many claimants found eligible have received compensation under the Department of Labor program. Indeed, the Department of Labor's implementation of subtitle B has been universally recognized as a success.

In sharp contrast to the Department of Labor's record, the processing of claims under subtitle D of the Act by the Department of Energy has been unacceptably slow. In 4 years, only 3 percent of claims have been processed by DOE. The great majority of claims remain unprocessed by DOE.

DOE's failure to successfully implement its portion of the Energy Employees Act has been the subject of two recent Senate Energy Committee hearings. The record of these hearings unequivocally reflects both DOE's dismal claims processing record and its failure to develop any plan to provide funds to a significant percentage of nuclear workers found eligible for compensation.

In addition to the Senate hearings, the GAO recently issued a report on DOE's implementation of subtitle D of the Energy Employees Act. It found numerous problems with both DOE's

claims processing efforts and confirmed the findings of the two Senate Committee hearings concerning DOE's ability to assure that claimant's found eligible would actually receive compensation.

I try to stay away from dry statistics when discussing issues that have such a direct impact on so many Americans' lives and health. However, I think that in this instance one statistic starkly illustrates the need for this legislation. After 4 years and more than $90 million in administrative funding, DOE has provided compensation to only 4—yes, 4—of more than 24,000 individuals that have applied for assistance under the subtitle D program.

There is nothing new or difficult about this legislation. There is nothing that requires lengthy reflection or consideration. This amendment simply implements legislation Congress passed 4 years ago. Unfortunately, what Congress intended in the 2000 Energy Employees Act has not occurred. This amendment addresses that failure.

I close my remarks as I began. Our Nation owes a debt of gratitude to the nuclear workers. It is well past time that we provided Alaskans and other Americans the compensation they have earned in service to our country. The workers and their survivors deserve no less.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Does the Senator from Kentucky wish to modify his amendment?

Mr. BUNNING. I will, following the Senator from Iowa.

Mr. WARNER. Fine. I ask my colleague to be able to wrap up this very important debate shortly.

Mr. HARKIN. Shortly.

Mr. WARNER. We are anxious to move on, and there will not be a requirement for a rollcall vote. I appreciate very much the cooperation because given the bipartisanship on this matter, it will be a timesaver as we move ahead on this bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask unanimous consent that I be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Madam President, I thank the Senator from Kentucky for also agreeing to modify his amendment with a provision of mine that would shorten the period of time that Congress has to review an administrative determination to add a class of nuclear weapons workers to a ''Special Exposure Cohort'' entitling them to automatic compensation from 180 days to 60 days. I appreciate the willingness of the Senator from Kentucky to accept that and to shorten that period of time to 60 days which will speed the process of compensating workers.

Senator BUNNING has worked very hard on this amendment. It takes some very important steps toward addressing very serious defects in an existing compensation program, and I hope that my colleagues will support the amendment today and hopefully we will not even need to have a rollcall vote.

In my State of Iowa, between the years of 1947 and 1975, almost 4,000 people were employed assembling, disassembling nuclear weapons. So great was the secrecy surrounding the facility, which was located inside an existing ammunition facility, that I did not even learn of its existence until late in 1997. I might add that when I was informed by certain workers that they had been exposed to dangerous radiation, I then submitted this to the Department of Army.

The Department of Army denied that they had ever worked on nuclear weapons at this facility. Well, I thought that was the end of it. I thought surely the workers must have been mistaken. Then I found out that it was the Army that was mistaken and, in fact, thousands of workers had worked at this plant in Iowa. Five and a half years later we are still trying to learn the full extent of the weapons activity and the radioactive materials to which Iowa workers were exposed.

During this same period, as the realization sank in that the cold war really was over, it became clear that nuclear weapons workers all over the country had been exposed to extremely dangerous radioactive materials without their knowledge and without adequate protection. As a result, many of the workers developed cancer and related occupational illnesses. That is why in 2000, Congress acted to create a compensation system for former atomic weapons workers.

The compensation system that we created had two distinct parts. The part addressed by the Bunning amendment today applies to workers who show that they have an illness that was more likely than not caused by the work they performed in these nuclear weapons facilities, and that they have been disabled by that illness.

Since the creation of the compensation program, this part has been administered—or I should say, quite frankly, has been NOT administered—by the Department of Energy. There are 23,000 workers who have filed claims with the Department of Energy. As of April of this year, exactly one person has received compensation.

When confronted with this appalling record, the Department of Energy continued to assert that it was making improvements and would have all the claims through the first stage of the process in no less than 5 more years! Of course, even if the Department had done a better job of processing the claims, not one single worker in Iowa would ever have been able to get paid. That is because the program was totally dependent on the existence of a current Department of Energy contractor who would be available to pay the claims.

This is a catch-22 situation for Iowa workers because Iowa has not had a DOE contractor since 1975. So as the program stands today, there is no way that any former Iowa atomic workers will be able to get compensation for their illness.

So I welcome the Bunning amendment, which transfers this program known as Title D from the Department of Energy to the Department of Labor and permits the Department of Labor to pay the claimants directly. This will mean that Iowa workers can actually receive compensation and medical benefits under this program. The Bunning amendment simply carries through on our original commitment in the 2000 bill that Congress believes that former nuclear weapons workers made ill by their employment are entitled to compensation.

I do believe this amendment should be a little bit better, and I will talk about an amendment that Senator BOND and I will be offering at some other point later on. First, the amendment continues to require that the amount of compensation under this program be determined based on the State compensation formulas. That means if a worker in Iowa and a worker in Kentucky or New Mexico had the exact same illness, they could nonetheless be receiving very different compensation awards. That makes no sense and creates a ridiculous burden on the Department of Labor in attempting to get these claims processed and paid.

In addition, the level of compensation paid under this program is in my opinion inadequate. The amount that a former worker can receive is calculated based on his or her wage at the time of the disability. In Iowa, this means that the absolute best case scenario is that a worker would receive eighty percent of a 1975 wage, a wage from almost 30 years ago, with no adjustment for interest or inflation.

Under the absolute best case scenario, where a worker is determined to be 100-percent disabled by an injury, that worker would receive about $105 a week, or about $5,000 a year. That is the best case scenario. Most will receive much less.

I think every atomic worker in America who can show they have been injured ought to receive the same pay, whether they worked in Kentucky, Ohio, New Mexico, Colorado, Iowa, Alaska, or Missouri. Basing this on workers' comp wages in each State, again, skews it that way. I believe the amount they are being paid is too low. To base it on a wage of 30 years ago is totally inadequate.

But nonetheless, I believe this amendment is a major step forward for workers in Iowa and across the country. I just wish we could find a more simple and uniform and more generous method for awarding this compensation.

In addition, this amendment essentially leaves untouched the other half of the energy workers compensation program. Basically, we are talking about two titles: Title D, which the

Bunning amendment addresses, and then there is Title B. That provides a flat sum of $150,000 and medical benefits to workers with cancer and beryllium disease.

There are two ways for a worker to qualify for this compensation under Title B. The first is to qualify for automatic compensation as a member of a special exposure cohort. When we originally passed the bill, workers from Kentucky, Ohio, Tennessee, and Alaska were designated for this automatic compensation. My question is, Why not all the other atomic workers around the country? Why were they left out? Why should they not be included in part B? Why should those who worked in Iowa who were exposed not be included? So that is the special exposure cohort.

The second way to qualify for the title B, the cancer and beryllium title, and the only method available to the workers in Iowa at the Iowa Army ammunition plant and at facilities in Missouri and at other facilities across the country, is to go through a process where a worker's dose of radiation is reconstructed based on all the documents and information gathered from the site.

At the time the bill passed Congress in 2000, Congress recognized there would be situations where it was simply not feasible to reconstruct workers' doses because relevant records of dose are lacking or do not exist, or because it might take so long to reconstruct a dose for a group of workers that they will all be dead before we have an answer to who is eligible.

That, unfortunately, is precisely the situation in which we find ourselves in Iowa. The Iowa Army ammunition plant facility was in operation, as I said, from 1947 to 1975. The people who worked there who are still alive are elderly, and they are ill. Many have died since we first passed the bill. Bob Anderson, the gentleman who first wrote to me about the fact that they made nuclear weapons in Iowa at this facility, will undergo surgery for thyroid cancer this week. That is in addition to the lymphoma from which he already suffers. Yet almost 4 years into this program, only 38 Iowans have received compensation, and that 38 does not include a single person who suffers from cancer—not one.

These people cannot afford to wait any longer. That is why I will be offering an amendment with Senator BOND to allow workers from our facility to receive automatic compensation as part of a special exposure cohort, the same as the workers in Kentucky, Ohio, Tennessee, and Alaska.

Why should Iowa workers be added to the category entitled to this automatic compensation? Because what we have learned since 2000 is that Iowa has the single worst record of any facility in the country involved in nuclear weapons production. After 3 years of hard work by researchers at the University of Iowa and by the National Institute of Occupational Safety and Health, they have concluded there are no records anywhere that document the level of internal radiation exposure to which workers in Iowa were exposed—none, no records.

With regard to external doses, which are measured by having workers wear badges, between 1948 and 1958 not one single worker in Iowa wore a dose badge—not one. So how can you reconstruct it when, for 10 years, they didn't even wear a dose badge? And, when they did begin wearing badges, it was minimal. Between 1959 and 1965, somewhere between 8 and 35 workers a year wore badges out of a workforce of 800 to 1,000 at that facility. This is despite the fact that just this week, at a meeting of former workers, they told my staff that based upon the way the plant was set up, at least 156 workers a year were exposed to the highest levels at the plant.

Listening to these workers, some of whom worked side by side while one wore a badge and the other didn't, gives a sense of just how totally lacking the facility was in terms of monitoring the radiation that these workers received. Up until 1968, the highest percent of the DOE employees who were monitored was 7 percent, and I am told that these were badges that workers wore on their collars while they were working with nuclear material at waist level.

Just in the last couple of months, NIOSH, the National Institute of Occupational Safety and Health, has completed a ''site profile'' of the Iowa Army Ammunition Plant that acknowledges these grossly inadequate records. But what is their approach now? They believe they can reconstruct this dose that Iowa workers got by looking at an entirely different facility in Texas during an entirely different time period. This is not fair and it is not right. It is time to admit that Iowa is a site where it simply is not possible to perform dose reconstruction. The Government simply doesn't know what went on at the facility and to what the workers were exposed. That makes it impossible to perform timely dose reconstruction based on science.

For example, in a site profile, NIOSH assumed that the entire work of the facility consisted of assembly work where the workers were protected from the most virulent types of radiation because the neutrons were already shielded with a hard coating when they arrived at the plant. But in a meeting with former workers, they spoke of how weapons were regularly disassembled. The protective outer coat was removed, exposing them to high doses of neutron radiation.

I know the chairman is anxious to get on, but this is extremely important to hundreds of people in the State of Iowa who are sick today with cancer, who are sick today with other diseases, who worked in these plants, who never were told to what they were exposed. We have been fighting, I say to my friend from Virginia, we have been fighting for years to get these poor people covered and they are dying every day and they are not being compensated.

Mr. WARNER. Mr. President, I have personally observed the Senator from Iowa and the Senator from Kentucky for years, and finally they have brought it to fruition. We are ready momentarily to act and accept the amendment.

Mr. HARKIN. I know. I am supporting the amendment. What I am trying to say here on the Senate floor is that even with this amendment there are certain people in Iowa who, because of the way it is structured, will not be adequately compensated. What I am saying to my friend from Virginia and others on the Senate floor is there is a special program that exists in about four different States where if workers have cancer or beryllium illness, they are automatically compensated. In Iowa, because we have no records of dosages and these people have cancer from beryllium, they should have also been put into that special program. Why should atomic workers from one State be put into that and atomic workers from another State exposed to the same kind of radiation not be?

That is the case I am making here. I support the amendment. It takes us a long way. It gets us out of the Department of Energy into the Department of Labor. But it does not address the part of the compensation program that provides for people with cancer. I am saying NIOSH cannot do it, cannot reconstruct the radiation doses of people suffering from devastating cancers. These people in Iowa I believe are being discriminated against. They cannot reconstruct valid doses.

This is exactly the type of situation Congress foresaw when we passed this legislation in 2000. Former weapons complex workers in Iowa are old, they are sick, and they are dying. I mentioned one who just had a lymphoma operation, and he is now undergoing a thyroid operation this week. He was exposed year after year to deadly radiation.

I will close by saying that at a meeting of workers in Burlington, IA, earlier this week we heard from a number of workers—one who worked with weapons for 3 years in the 1960s. Two of her children were born with very serious birth defects which the doctors themselves attributed to radiation exposure. She herself has now developed cancer. We heard from workers who talked about the hair on their legs and arms standing on end when they were near the weapons even though the weapons were cool to the touch. We heard from children whose parents had died when they were young because of lung cancer, kidney cancer, and other cancers, and who worked for years in this facility.

What these people are seeking is not just about money; it is about an acknowledgment that they were put in harm's way without their knowledge. They are seeking an acknowledgment that they made a sacrifice on behalf of the good of this country and for the protection of this country. To require these workers to continue to wait for that justice is not fair and it is not right.

I thank Senator BUNNING and Senator BINGAMAN for their hard work on this amendment. This amendment, as I say, fixes one-half of the compensation system. This is a major step forward. I also say to my colleagues that we are not doing justice for all these workers.

Senator BOND and I will be offering an additional amendment as we proceed on this bill.

There is no reason we should not add the workers from these two facilities to the special exposure cohort. When we originally passed this bill, we created a fund with mandatory spending in the Department of Labor. The Congressional Budget Office analysis devotes almost $700 million for payment of compensation to workers included in the special exposure cohorts—the cancer cohorts. Today, even though the vast majority of claims by workers in those four States who are eligible for this cohort have been paid, just over $400 million has been spent. But the Congressional Budget Office devoted $700 million. The money is there. The money has already been accounted for. We just ask that these workers be acknowledged for the sacrifices they made for their country and that they be included in the special cohorts.

I again thank the Senator from Kentucky.

I yield the floor.

MODIFICATION TO AMENDMENT NO. 3438

Mr. BUNNING. Madam President, I ask unanimous consent that my amendment be modified by the language currently at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

At the end insert:

REVIEW BY CONGRESS OF INDIVIDUALS DESIGNATED BY PRESIDENT AS MEMBERS OF COHORT

Section 3621(14)(C)(ii) of that Act (42 U.S.C. 10 7384*l*(14)(C)(ii) is amended by striking ''180 days'' and inserting ''60 days''.

Mr. REID. Madam President, before this amendment is agreed to, I ask unanimous consent that the Senator from Washington be allowed to speak for up to 3 minutes on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Ms. CANTWELL. Madam President, I rise as a sponsor of the Bunning amendment, and I thank the Senator from Kentucky for his hard work—both on the Energy Committee and here on the floor of the Senate.

Obviously, we are taking a giant step forward in moving major responsibility for the Energy Employee Occupational Illness Compensation Program at the Department of Labor.

There are thousands of people in Washington State who have been impacted by exposure while working at the Hanford Reservation. The issue is that in 2000, with passage of the original act, as my colleague from Iowa stated, we set up specific exposure cohorts that allowed workers in particular regions of the country to get compensation based on their exposure to beryllium. But where we are today is there are still thousands of workers who have not had their claims processed.

One of the reasons why claims haven't been processed is specific information doesn't exist or was not kept by the various employers at these reservation sites across the country to show what exposed employees endured. The issue then becomes that they have been left to fight their own battles—to fight to get compensation, to fight to prove they actually had exposure, and to fight to pay their medical bills.

With thousands of people in Washington State affected by this, I have been a big supporter of those responsibilities over at the Department of Labor. Besides that, this great ombudsman program is where individual employees can go to ask for help and support in moving their cases.

It also helps in establishing a willing payer. Some of the companies that have been involved in the cleanup process throughout the U.S. no longer exist. We have had employees who wanted to get compensation, and have proven their cases, only to find that no employer existed. This helps in establishing a willing partner and payer.

But the most specific and positive aspect of this legislation is the step forward in saying, let us do site profiles. Site profiles are specifically the responsibility of the Department of Labor to go to a place such as the Hanford nuclear reservation and say, even though some of the employers may not have kept day-to-day logs and details about every specific employee and how they were exposed—and my colleagues have articulated on the Senate floor already how so many people in their States did not have records kept and went to get records by the Department of Energy only to find they didn't exist for the individual employee. When the Department of Labor does a site profile, it will help us when we come back and say that a large class of people at the Hanford Reservation and possibly these other sites around the country now qualify for compensation. This will help expedite that.

The amendment that was modified by the Senator from Kentucky, which the Senator from Iowa worked on, is a very helpful amendment because it actually helps speed up that process of those site profiles.

I don't think it is lost on my colleagues that many of these people are dying. Many of these people, by the time this program under the DOE was going to be finished, were never going to get the help they deserved.

This amendment takes a very positive step forward in getting site profiles done, getting the information needed to prove that these people have been impacted, that they have had illness due to exposure on the job, and that they will not get some help.

I yield the floor.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. HAGEL). The question is on agreeing to the amendment, as modified.

The amendment (No. 3438) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I will address the Senate with regard to a unanimous consent which has been crafted carefully on both sides of the aisle.

I ask unanimous consent that Senator GRAHAM now be recognized to call up his amendment No. 3428, and that it be further modified with the changes at the desk. I further ask consent that there be 15 minutes for debate equally divided on the amendment, and that following that time the amendment be agreed to and the motion to reconsider be laid upon the table.

If further ask that following disposition of the Graham amendment, Leahy amendment No. 3292 be the pending question, and that I be recognized to send up a second-degree amendment, No. 3452.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3428, AS MODIFIED

Mr. GRAHAM of South Carolina. I send my modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself and Mr. CRAPO, Mr. CRAIG, and Mr. ALEXANDER, proposes an amendment 3428, as modified.

The amendment is as follows:

On page 384, line 15, strike ''by rule in consultation'' and all that follows through page 385, line 21, and insert ''by rule approved by the Nuclear Regulatory Commission;

(2) has had highly radioactive radionuclides removed to the maximum extent practical in accordance with the Nuclear Regulatory Commission-approved criteria; and

(3) in the case of material derived from the storage tanks, is disposed of in a facility (including a tank) within the State pursuant to a State-approved closure plan or a State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this Act.

(b) INAPPLICABILITY TO CERTAIN MATERIALS.—Subsection (a) shall not apply to any material otherwise covered by that subsection that is transported from the State.

(c) SCOPE OF AUTHORITY TO CARRY OUT ACTIONS.—The Department of Energy may implement any action authorized—

(1) by a State-approved closure plan or State-issued permit in existence on the date of enactment of this section; or

(2) by a closure plan approved by the State or a permit issued by the State during the pendency of the rulemaking provided for in subsection (a).

Any such action may be completed pursuant to the terms of the closure plan or the State-issued permit notwithstanding the final criteria adopted by the rulemaking pursuant to subsection (a).

(d) STATE DEFINED.—In this section, the term ''State'' means the State of South Carolina.

(e) CONSTRUCTION.—(1) Nothing in this section shall affect, alter, or modify the full implementation of—

(A) the settlement agreement entered into by the United States with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91–0035–S–EJL, and United States v. Batt, Civil No. 91–0054–S–EJL, in the United States District Court for the District of Idaho, and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement;

(B) the Idaho National Engineering Laboratory Federal Facility Agreement and Consent Order; or

(C) the Hanford Federal Facility Agreement and Consent Order.

(2) Nothing in this section establishes any precedent or is binding on the State of Idaho, the State of Washington, the State of Oregon or any other State for the management, storage, treatment, and disposition of radioactive and hazardous materials.

NATIONAL ACADEMY OF SCIENCES STUDY

(a) REVIEW BY NATIONAL RESEARCH COUNCIL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Energy shall enter into a contract with the National Research Council of the National Academies to conduct a study of the necessary technologies and research gaps in the Department of Energy's program to remove high-level radioactive waste from the storage tanks at the Department's sites in South Carolina, Washington and Idaho.

(b) MATTERS TO BE ADDRESSED IN STUDY.—The study shall address the following:

(1) The quantities and characteristics of waste in each high-level waste storage tank described in paragraph (a), including data uncertainties;

(2) The technologies by which high-level radioactive waste is currently being removed from the tanks for final disposal under the Nuclear Waste Policy Act;

(3) Technologies currently available but not in use in removing high-level radioactive waste from the tanks;

(4) Any technology gaps that exist to effect the removal of high-level radioactive waste from the tanks;

(5) Other matters that in the judgment of the National Research Council directly relate to the focus of this study.

(c) TIME LIMITATION.—The National Research Council shall conduct the review over a one year period beginning upon execution of the contract described in subsection (a).

(d) REPORTS.—

(1) The National Research Council shall submit its findings, conclusions and recommendations to the Secretary of Energy and to the relevant Committees of jurisdiction of the United States Senate and House of Representatives.

(2) The final report shall be submitted in unclassified form with classified annexes as necessary.

(e) PROVISION OF INFORMATION.—The Secretary of Energy shall make available to the National Research Council all of the information necessary to complete its report in a timely manner.

(f) EXPEDITED PROCESSING OF SECURITY CLEARANCES.—For purposes of facilitating the commencement of the study under this section, the Secretary of Energy shall expedite to the fullest degree possible the processing of security clearances that are necessary for the National Research Council to conduct the study.

(g) FUNDING.—Of the amount authorized to be appropriated in section 3102(a)(1) for environmental management for defense site acceleration completion, $750,000 shall be available for the study authorized under this section.

The PRESIDING OFFICER. The Graham amendment is so modified.

Mr. GRAHAM of South Carolina. We have 7½ minutes?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. GRAHAM of South Carolina. Mr. President, I would like to speak for 2 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, many thanks to a lot of people for resolving an issue important to South Carolina. This amendment is a work product of Senators CRAPO, CRAIG, myself, and others. Senator CRAPO has been terrific to work with, along with Senator CRAIG.

We have now put into place an amendment that well defines what we were trying to do. I am trying to clean up 51 tanks of 37 million gallons of high-level nuclear waste in South Carolina, 23 years ahead of schedule, saving $16 billion. My intent has been to do just that and no more.

The Crapo-Craig-Alexander amendment clearly says the agreement between DOE and South Carolina is South Carolina specific. Senator ALEXANDER's language says the Nuclear Regulatory Commission will always retain the power to determine what high-level versus low-level waste is. The $350 million in question will flow to Idaho and Washington regardless of an agreement or the lack thereof. The Crapo-Graham amendment has been worked with Senator CANTWELL, and it does not prevent the disposition plan that has been agreed to in South Carolina.

I thank all Members. There will come a day when Idaho and Washington will need like help, and I will be there. I want the people in South Carolina to know without the help of Washington and Idaho, this would not have happened. There will be a day when they need our assistance, and I will be there. This is a win-win. There is nothing in this amendment that will prevent section 3116 from moving forward.

I yield back any time I have.

Mr. ALEXANDER. Mr. President, I express my gratitude to the Senators from Idaho, and the Senator from South Carolina for working with me on this amendment. I voted against the Cantwell motion to strike because Senator GRAHAM agreed to work with me in making some modifications to the underlying bill.

I am not opposed to reclassification of radioactive waste. What I believe is that the Nuclear Regulatory Commission must have a central role in this process.

The bill as it stands now grants the Department of Energy the right to reclassify nuclear waste from high-level to low-level waste. Under current law, only the NRC has authority to define high-level and low-level radioactive waste. Congress gave the NRC that authority in the Nuclear Waste Policy Act of 1982. The NRC's authority should be maintained. We should keep that authority in the hands of one regulatory agency.

This perfecting amendment ensures that the NRC has the final say in any re-classification criteria. One amendment would modify Section 3116 of the bill to require the NRC to approve the criteria that the DOE uses to determine whether waste incidental to reprocessing is high-level or low-level radioactive waste. This would maintain the NRC's authority over defining radioactive waste.

I hope my colleagues will support quick adoption of this amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. I appreciate the opportunity to speak on this amendment. I appreciate the hard work of all those involved as we have negotiated these very important issues to the Nation, particularly to the States of South Carolina, Idaho, and Washington.

When we put together the South Carolina language last week and debated it in the Senate, there was a question raised whether that would cause any impact with regard to agreements that had been reached or to negotiations that were underway between the State of Idaho and the Department of Energy and Washington and the Department of Energy.

This amendment makes it very clear that there is no precedent value of the South Carolina language that would impact or in any way alter or amend the agreements of the State of Idaho and the State of Washington that they have with the Department of Energy, or create any precedent for any negotiations now underway between those two States.

The language says that nothing in the section shall alter, affect, or modify the full implementation, and it lists the various agreements for Idaho, most important of which is the Batt agreement.

Then it says:

(2) Nothing in this section establishes any precedent or is binding on the State of Idaho, the State of Washington, the State of Oregon, or any other State for the management, storage, treatment, and disposition of radioactive and hazardous materials.

It is very clear by statutory language now—if it was not already clear before, which we believe it was—that the South Carolina agreement stands by itself. The States of Idaho, Washington, and all other States will be free to negotiate their own arrangements and relationships with the Department of Energy.

Again, I thank Senator CRAIG, Senator ALEXANDER, and Senator GRAHAM for working so closely with me. Senator CANTWELL from Washington has worked closely with us on this issue. I appreciate everyone coming together with a strong resolution to resolve these critical issues.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the chairman of the Defense Authorization Committee for his cooperation and the ranking member for allowing Idaho and Washington and South Carolina to resolve what was and has been, at some points along the way, a contentious issue. But foremost, I thank my colleague from Idaho, MIKE CRAPO, for the diligence that he has put into making sure that Idaho remains whole in its agreement, that Washington remains whole in its agreement, and that South Carolina be allowed to gain an agreement with the Department of Energy, and, if you will, to wipe away the fog that had been created by a court decision that did not, in the opinion of the Department of Energy and the OMB, allow them a clear path forward to continue to spend money for the purposes of cleanup.

We think this language allows that clear path forward while allowing the State of South Carolina to arrive at an agreement different from that which the State of Idaho or the State of Washington has.

I agree, the language is not precedent-setting. Idaho is still very whole in the relationship it has currently with the Department of Energy. My goal, and the goal of the other Senator from Idaho, MIKE CRAPO, has always been to assure that cleanup goes forward without a hitch, and this language will allow that to happen, for the $90-plus million that was dedicated to cleanup in Idaho for this coming year to be allowed to be applied for that purpose. We think that is critically important as we move down this path.

We have worked closely with the State of Idaho. We think this does meet the concern of the State of Idaho. They have vetted this language and understand it clearly. We hope we have now resolved any question anyone might have as to Idaho's role and primacy as it relates to its relationship with the Department of Energy for the purposes of cleanup.

I say to the chairman, thank you for your willingness to be flexible as we have worked out these difficulties.

I appreciate the positions and concerns of the Senator from Washington. We hope this language keeps Washington as whole as we believe it does and as we believe it keeps Idaho, while allowing the State of South Carolina to proceed down a path that could be somewhat different from that which we might choose.

With that, I yield the floor.

Mr. ALEXANDER. Madam President, I wish to express my gratitude to the Senator from Idaho and the Senator from South Carolina for working with me on this amendment and allowing me to be a cosponsor. I voted against the Cantwell motion to strike because Senator GRAHAM agreed to work with me in making some modifications to the underlying bill.

I am not opposed to reclassification of radioactive waste. What I believe is that the Nuclear Regulatory Commission must have a central role in this process.

The bill, as it stands now, grants the Department of Energy the right to reclassify nuclear waste from high-level to low-level waste. Under current law, only the NRC has authority to define high-level and low-level radioactive waste. Congress gave the NRC that authority in the Nuclear Waste Policy Act of 1982. I think the NRC's authority should be maintained. We should keep that authority in the hands of one regulatory agency.

This perfecting amendment ensures that the NRC has the final say in any reclassification criteria. Our amendment would modify Section 3116 of the bill to require the NRC to approve the criteria that the DOE uses to determine whether waste incidental to reprocessing is high-level or low-level radioactive waste. This would maintain the NRC's authority over defining radioactive waste.

I hope my colleagues will support quick adoption of this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, are we ready to vote on this matter?

I urge adoption of the amendment.

The PRESIDING OFFICER. There is still 7½ minutes remaining for debate.

Mr. WARNER. Mr. President, I yield back the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3428) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I had wished to speak on the previous amendment. I thought that was part of the agreement, but I will be more specific now, since the amendment has just been adopted by voice vote; and that is to say, the amendment allows us to do a study, it allows the Department of Energy to receive information from the National Academy of Sciences in the future about the ground water conditions and environmental conditions from any kind of proposal or plan on which the Department of Energy would like to move forward.

I think my colleague from South Carolina said it best when he said our colleagues in the Senate have probably learned more in the last few weeks about nuclear waste and our responsibilities as the Federal Government than they have at any previous time.

But I guess I disagree with my colleagues. This debate is far from over. I do not agree with the underlying bill or where it is going in changing the definition of nuclear waste. No State in America should be allowed, on the Environmental Protection Act, on the Clean Water Act, on any legislation, to cut a deal behind closed doors with the Federal Government and think they are going to stick the American consumer with waste in their backyard.

While this particular amendment that we just voice-voted will allow us to say that we want this to look no further than what South Carolina is proposing, and that we want DOE to do its job in providing an environmental study and analysis of this issue, this issue is far from over for the American people.

This issue not only impacts my State, and the States of Oregon and Idaho, it affects every Western State. The reason it affects every Western State is because the Department of Energy has been trying to reclassify waste all over the West, push it into New Mexico, cut it across Arizona, and demand that waste from South Carolina be accepted in Washington State. We just had to file suit recently because high-level waste from South Carolina was illegally sent to Washington State.

So while I support my colleagues' efforts today to clarify that, more study and analysis should be made. This debate is far from over, and this body needs to understand that it is reclassifying the definition of high-level waste to a lower level, which will make all Americans less secure, and certainly the drinking water in South Carolina and in Washington State, if this is not resolved, less secure for people.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, very briefly, the amendment has been adopted, and I would like to make a comment or two for those who may still be listening.

The membership has been challenged for 3 weeks now to find a way to deal with the problem. Here is the simple problem: For over a year, South Carolina, Washington, and Idaho have been trying to negotiate with DOE a way to clean up tank farms that have a lot of high-level waste.

In my State, there are 37 million gallons of high-level liquid waste in tanks that are over 50 years old. There are only 51 of them. For about a year now we have been negotiating with DOE to define what is ''clean'' and how we can best close up those tanks. We have been able to take the liquid out of two of the tanks and come up with a plan that has been approved by the Nuclear Regulatory Commission that says that the inch and a half of waste left in those two tanks is no longer high-level waste because of scientific treatment.

We want to apply that same concept to the other tanks. What I am trying to do in South Carolina is good for South Carolina's environment. It has been approved by the Nuclear Regulatory Commission as being safe. It has been approved by the Defense Waste Policy Board as being safe. It does not prejudice Idaho or Washington that have similar problems.

I do appreciate the fact that the body has allowed this agreement to go forward. South Carolina will save $16 billion, and it will allow the tanks to be closed up 23 years ahead of schedule.

I am willing to work with any Senator from any State who has similar problems. I am not willing to sit on the sidelines and disallow my State to move forward in an environmentally and economically sound fashion to address a real problem South Carolinians face. We have done nothing to prejudice anybody else. We have not changed any standards, given any authority to DOE at the expense of the Nuclear Regulatory Commission.

A lot of demagoguery is going on here, but it is time to clean up these sites and stop demagoguing. I hope one day Washington can find an agreement to clean up the tanks and alleviate their ground water problems. If they need help from Congress, I will be there. But I urge Idaho and Washington and other States to try to work to get these matters behind us.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator for his hard work.

AMENDMENT NO. 3452 TO AMENDMENT NO. 3292

Mr. President, I believe the Senate is ready to turn its attention to the amendment from the distinguished Senator from Vermont. Am I correct in that?

The PRESIDING OFFICER. That is correct.

The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3452 to amendment No. 3292.

The amendment is as follows:

(Purpose: To extend jurisdiction and scope for current fraud offenses)

On page 1, strike line 2 and all that follows through page 4, line 11, and insert the following:

(a) STATEMENTS OR ENTRIES GENERALLY.—Section 1001 of title 18, United States Code, is amended by adding at the end the following:

''(d) JURISDICTION.—There is extra-territorial Federal jurisdiction over an offense under this section.

''(e) PROSECUTION.—A prosecution for an offense under this section may be brought—

''(1) in accordance with chapter 211 of this title; or

''(2) in any district where any act in furtherance of the offense took place.''.

(b) MAJOR FRAUD AGAINST THE UNITED STATES.—Section 1031 of title 18, United States Code, is amended by adding at the end the following:

''(i) JURISDICTION.—There is extra-territorial Federal jurisdiction over an offense under this section.

''(j) PROSECUTION.—A prosecution for an offense under this section may be brought—

''(1) in accordance with chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

Mr. WARNER. Mr. President, my understanding is that the second-degree amendment from the Senator from Virginia is now before the Senate.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, as I understand it, there is no time agreement on the second-degree amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Nor do I think there will be. I realize the second-degree amendment is designed—whether intentionally or otherwise—to protect a number of the major corporations now working in Iraq, some of which have been involved with overcharging our military and profiting on the war. It is unfortunate that we would try to protect those who are gouging the American taxpayers.

After World War II and after the Korean War, we put in a war profiteering amendment similar to what I offered, and I would say to my distinguished friend from Virginia, we passed a similar war profiteering amendment on the Iraq supplemental appropriations bill last year. But when it came up in conference with the other body, even though they are independent Members of the House, several of them were very candid and told me they had been directed by the White House to remove it and had heavy pressure brought by Halliburton and others. So they had to remove the war profiteering amendment.

I actually thought we were elected not by corporations, whether it is Halliburton or anybody else, and not appointed by the White House, but, rather, are here to do the American people's business.

Now, be that as it may, I would hope that at some point we would get to the underlying amendment, and it would actually be the law today except that the White House and Halliburton and others told the Republican majority, the leadership in the other body, that they had to take it out, which they did.

I commend the majority of Senators, both Republicans and Democrats, who supported it originally and have been willing to resist the pressure of the White House.

Over the last few weeks, the news has been dominated by events in Iraq. We are still trying to figure out exactly what went wrong in Abu Ghraib prison as well as other detention centers around the world. There has been some disagreement on this issue, but I think we have already learned a couple of lessons.

We need to improve transparency. We need to improve accountability. We need to put in place strong measures to prevent illegal and immoral acts. The reason for doing this is simple. Bad behavior by a few can lower morale among American soldiers. It can undermine support at home for the mission, and it could damage the work of the vast majority of brave men and women who are trying to do the right thing, trying to make life better, and are putting themselves in harm's way every day. By all means, we ought to take action in this body to make sure that no corporation or group can come in and make obscene profits or engage in war profiteering while our American men and women are putting their lives on the line for their country. We should not have anybody come in and say: Here is a great way to make some huge profit off their suffering and off the suffering of the Iraqi people.

So my amendment does not have anything to do with the recent prison abuses in Iraq, but it does address the serious issues I mentioned. It addresses the serious and sinister problem of war profiteering that can harm our mission there and around the world.

Senator Harry Truman served with distinction in this body and conducted Senate committee investigations into war profiteering during World War II. Then-Senator Truman, later President, said on this issue:

> No one objects to a fair profit . . . [I]t is our duty . . . to protect the patriotic majority of war contractors against a stigma of profiteering generated by the self seeking minority. We intend to see that no man or corporate group of men shall profit inordinately on the blood of the boys in the fox holes.

Today we have both men and women on the frontlines. And we have a lot of companies over there who are putting their own people in harm's way. They are doing it with the best interests of our country and the best interests of the Iraqi people. They are doing it very bravely. They are not doing it to profit from the war. As Harry Truman said: We have to take care; we have ''to protect the patriotic majority of war contractors against the stigma of profiteering generated by the self seeking minority.''

All my amendment says is that while most of the people over there will be playing by the rules, for those who are not, we are going to hold you accountable.

As a former prosecutor, I know nothing focuses the minds of those who are committing crimes more than knowing somebody can put them in prison for a long time. I will give you an easy example. If you have five warehouses lined up and four of them have heavy locks on the doors and one doesn't, that is the one that usually gets burgled. In this case, most people are going to be very honest. But without the locks on the doors, there are going to be some who try to get away with ripping off the American taxpayers.

I would hope that everybody in this body, Republican and Democrat, would agree with what President Truman said. I am concerned because we have seen one bad headline after another—the Wall Street Journal, the Washington Post, the New York Times, and others—about Government contracts in Iraq.

In addition, Time magazine recently reported on an e-mail sent by a Pentagon official that raises serious questions involving Vice President CHENEY's office, the White House, and the Vice President's former employer, Halliburton. This is what the e-mail says: A multibillion-dollar Halliburton contract was approved ''contingent on informing White House tomorrow. We anticipate no issue since action has been coordinated with Vice President's office.''

And right on schedule, 3 days later, the Army Corps of Engineers gave Halliburton a multibillion-dollar contract, and they did it without seeking any other bids. This does not look like a typical heads-up memo, as the Vice President's office is now claiming. To this former prosecutor from Vermont, it looks like a coordinated scheme to enrich Halliburton at taxpayer expense with no-bid contracts.

This latest revelation underscores the need to address this issue. Even if there is a reasonable explanation for this outrageous e-mail—and I am still waiting to hear what it is—we have to put in place tough measures to address this issue. I think we have to send a clear message that lining one's pockets, especially while our troops are in harm's way, is simply unacceptable.

I hope my amendment, if we are allowed to vote on it, will put a stop to these scandals. This amendment should pass unanimously. I am sorry that the Republican leadership has decided to put what I could only call ''a hold Halliburton harmless'' second-degree amendment in here. I hope that those majority of Senators, Republicans and Democrats alike, who voted for this amendment last year will vote against the second-degree amendment and vote for this amendment. Vote against the ''hold Halliburton harmless'' amendment and vote for the war profiteering prevention amendment.

The war profiteering prevention amendment, if it becomes part of law, will send a very clear signal. I don't care what the corporation is, whether the corporation is from Vermont or anywhere else, it will send a very clear signal: Play by the rules. But if you don't play by the rules, just as Harry Truman said after World War II, we are going to hold you accountable.

Mr. President, I ask unanimous consent, at the request of the distinguished chairman, that we be allowed to go into a quorum call until the hour of 2 p.m.; that then, by consent, the call of the quorum be rescinded and the Senator from Vermont be recognized again.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, under the unanimous consent request, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I appreciate the concern of the distinguished senior Senator from Virginia in trying to find a way through this.

I want to make it very clear about what we have. The war profiteering bills President Truman spoke of after World War II were civil bills. This is a criminal statute. Actually, the criminal statute is more protective of the contractors because it requires a higher level of proof. As a former prosecutor, I much prefer the idea that someone thinks they are not just going to pay a fine, they might face prison.

Second, this passed in almost exactly this form in the supplemental appropriations bill. It was debated and passed as a separate measure in the committee. The amendment then became part of the Supplemental which passed the Senate by a wide margin. The amendment we are considering today is different only in two respects. This one applies to all countries; at that time, it applied only to Iraq. Second, the amendment the Senate passed earlier contained a sunset. The amendment here today does not.

When we went to conference, the House did not have a similar piece of legislation. The distinguished chairman of the Appropriations Committee, Senator STEVENS, proposed they accept ours. They had a rollcall vote and, by party line, refused it. Senator STEVENS had modified it with, I believe, a 7-year sunset. That was not accepted.

Several Republicans were very forthright in saying they were under pressure from the White House not to accept it. Some suggested they were under pressure from corporations that were major contributors. I suggested if there is a bad case of war profiteering, they may come back to regret it.

Senator STEVENS very correctly wanted to make it clear that all Republicans and all Democrats on the Appropriations Committee, in the committee of conference, had supported this. It had been part of a bill we passed overwhelmingly, if not unanimously, in this body early. Because the House would not accept it, it was dropped.

Obviously, every Senator has to vote the way he or she wants, but as war profiteering goes on, it is something each Senator has to answer to his or her constituents.

Mr. DURBIN. Will the Senator yield?

Mr. LEAHY. I yield, without losing my right to the floor.

Mr. DURBIN. I think the Senator said this, but I believe it should be repeated. Is this not the same issue we have voted on before? Did the Senator from Vermont offer earlier an amendment which would have created criminal penalties for those companies which are illegally profiting from the war in Iraq? Did the Senator offer a similar amendment last year?

Mr. LEAHY. Mr. President, if I might retain my right to the floor, the senior Senator from Illinois is absolutely correct; I did. I offered it. We had a debate within the Appropriations Committee to accept it within the Appropriations Committee and it became part of the bill.

My earlier statement may have left confusion, and I apologize. There was no intention of doing that. It was part of the appropriations bill and thus not voted on by the Senate although there was not a single amendment to strike that provision. There were various amendments, as the Senator may recall, that were proposed during the appropriations bill on the Senate floor, but no one moved to strike this. It passed 93–0. About the only difference in that bill, as I recall, was the amendment spoke only to Iraq. This includes other countries besides Iraq.

Yes, we voted on it, we passed it, and then the Senate offered it as their position. Both Republicans and Democrats offered it as our position to the other body, which rejected it on a party-line vote at the request of the White House.

Mr. DURBIN. I ask, through the Presiding Officer, if the Senator from Vermont would further yield for a question, if I am not mistaken, the Senator from Vermont came to Members initially and said creation of a criminal penalty for companies that profiteer illegally from the war in Iraq is modeled after a similar law proposed and enacted during the time of Harry Truman when he was looking at the very same question relative to World War II.

I recall during the course of that debate—and I will ask the Senator if my recollection is correct—that the Senator said, when we were asked to vote for this amendment, we were really trying to establish the same type of standard we used in every war when some individuals and some companies exploited the situation in a war to make an illegal profit. We do not want that to occur. It is not the fair to the taxpayers, it is not fair to the soldiers, it is not fair to America, and they should be held criminally accountable.

I ask the Senator from Vermont, if this amendment passed so overwhelmingly before, why is there any hesitation today to take this Harry Truman precedent and say those who misuse a war, where American lives are at stake, and profiteer should be held criminally liable for their misconduct?

Mr. LEAHY. Mr. President, if I might, the Harry Truman proposal, course, was civil. This is a criminal law.

Mr. WARNER. That is very important. Harry Truman was civil.

Mr. LEAHY. If the Senator would let me finish.

The Harry Truman amendment was civil. This is criminal. Thus, this is more protective of a defendant because, as the distinguished Senators know, and certainly those who have been prosecutors know all too well, in a criminal case you have to prove beyond a reasonable doubt. A civil case can often be the preponderance of the evidence. This is more protective of both sides. But it holds the hammer of a criminal proposal. This has tough criminal penalties for individuals who defraud the American taxpayer. It provides a maximum criminal penalty of 20 years in prison and fines of up to $1 million.

The reason we did criminal rather than civil, there was a time when if you proposed a $10 million fine back at the time of Harry Truman, that was a lot of money. We have had at least one company that has already had to pay back money on overcharging and profiteering. They spend more than that $10 million on a weekend running ads saying how good they are at feeding the troops. But if you are facing a criminal penalty and might go to the slammer, then you think about it.

I will state why this is necessary. For example, if we wanted to use current law, which is basically what the second-degree amendment is, current law does not specifically outlaw war profiteering. My amendment, which the Senator from Illinois has spoken about, does specifically outlaw war profiteering. We wanted to go as a second-degree amendment. Current statute does not say that U.S. courts have explicit and uncategorical jurisdiction over fraud and profiteering in Iraq. My amendment does. If we tried to just take current law, where are we? My amendment eliminates unnecessary thresholds, for example, to prove mail and wire fraud, and the current statutes do not. And, of course, a 20-year felony.

There really are no laws on the books that address war profiteering. There are laws on the books for murder, laws on the books for rape, laws on the books for armed robbery, but there is nothing that goes specifically into war profiteering. Frankly, what I want to do is not just to throw people in the slammer; I want to stop them from doing it in the first place.

This is a real deterrent. If you have a prosecution that says you can go to jail, not just pay a fine, which is small change for some of these companies, but you might actually go to jail, somebody is going to say: Wait a minute. We can't triple charge for this. We can't triple charge for these hotels. We can't triple charge for these cars—and so on.

Mr. DURBIN. If the Senator from Vermont will further yield for a question?

Mr. LEAHY. Yes, without losing my right to the floor.

Mr. DURBIN. Mr. President, I would like to ask the Senator from Vermont about three specific reports that have come out in the news recently about Halliburton and about their practices with sole-source contracts in Iraq, where they literally are not competing with any other company for these contracts, and they are cost-plus contracts.

I would like to ask the Senator from Vermont if the amendment which he is proposing might apply with a criminal penalty in these cases. It was reported last week that Halliburton and its subsidiaries were literally driving empty trucks back and forth on the highway, billing the Federal Government for each trip, when in fact they were not even transporting any supplies or equipment for our troops.

It was reported this morning that this same Halliburton operation, if they had a flat tire on a truck, they would abandon the $85,000 truck by the side of the road or torch the truck rather than try to get it repaired because each and every truck was just another cost-plus item on a Federal contract.

And then it was further disclosed they were incorrectly billing the Federal Government, charging for 240,000 cases of soda pop—if you can imagine—but they were delivering 240,000 cans of soda pop. So it was a dramatic overstatement of what they were supposed to be providing for the troops.

I ask the Senator from Vermont, when you consider the fact that we have 138,000 of our finest men and women risking their lives literally in Iraq, how can we possibly turn our backs on this type of outrageous profiteering that has been alleged? Why would it not be a crime? And why would this Senate even hesitate from establishing a criminal penalty when we have a situation that is costing the taxpayers over $1 billion a week to sustain our war effort in Iraq?

Mr. LEAHY. Mr. President, the Senator from Illinois raises the exact right point. You read these accounts in the press. I referred to the e-mail traffic which has just come out about a multi-billion-dollar noncompetitive contract given to Halliburton after they had sent e-mails saying it was being cleared by the Vice President's office or it was OK with the Vice President's office, and there are the things you have talked about, the obvious things about war profiteering.

Now, had the other body left the amendment in, the amendment that was part of the appropriations bill that we passed overwhelmingly—I think 87 to 12 here in the Senate—had they left that in the final bill, had they stood up to the White House and not allowed them to convince them to strip it out, then the kinds of actions the Senator from Illinois is talking about would be prosecutable.

I would suggest they probably never would have happened. The taxpayers would have saved those millions upon millions of dollars because somebody would have told them back at corporate headquarters: Hey, guys, you can go to jail if you do this. It is not just the case that if you get caught, you might have to pay the money back, but you can go to jail if you do this. And that would stop it.

Now, if we pass this today, it still has to be signed into law, and it would be prospective. Unfortunately, because the other body basically gave in to the importunings of the White House and took out the amendment, the war profiteering amendment which had been part of the bill that every one of us on this floor voted for, we cannot do anything about that. Had that been put into law, as it should have been, I suspect the activities that the Senator from Illinois has talked about would not have occurred because whoever is on the ground is going to call back and say: Hey, guys, it might sound good to you back home there, but I am not going to go to jail. I am not going to go to jail just to raise a little more money. I am not going to go to jail just because you say if you get caught you may have to pay it back, and it wouldn't happen.

What I am saying is this: When companies, especially some companies that have been accused of this, will spend more money in a few days here in Washington running ads to convince 535 Members of Congress how wonderful they are than they could possibly pay in fines, they do not care. You could leave whatever laws are on the books now. You could leave the possibility of paying it back. Because what happens? If you are a company and you go ahead and profiteer, you do war profiteering, you overcharge, you do whatever these other things are, and you do it 10 times, and you get caught 3 times, and they say: You are going to pay back those millions you overcharged—you say: Gosh, almighty, you got me. Gee, I'm sorry. Gee whiz. Here it is. And you tell your bookkeepers: They didn't find the other 7. We are ahead of the game.

On the other hand, if you do it 10 times, and you get caught on 3 of them, and suddenly people start going to jail, these other companies are going to say: Wait a minute, no-bid contracts or not, I am not going to take the chance.

If we want to stand up for the American taxpayers, if we want to say we are tough on crime, let's say criminals go to jail. That is all there is. Let's try this law. Let's see. Maybe if this is on the books people will stop profiteering.

What drives me up the wall is we have 140,000 very brave men and women—American men and women—over there under arms who are trying to do their best and getting shot at every day. I was at a funeral in Vermont this week for one of them, as I have been on several other occasions. They are putting their lives on the line. They are getting paid what a corporal or a sergeant gets paid, and they should not have to be putting up with companies back here making obscene profits on what they do. They put their lives on the line.

What I am saying is, some of the people who are making these obscene profits, they ought to at least go to jail. They ought to at least go to jail. I was thinking of that this week when I was at that funeral in Vermont. These are brave American men and women. I know every one of us here applauds their bravery. But I do not want to see companies, whether they are American companies or any other companies, making money on our sons and daughters who are over there putting their lives on the line.

That is why I want this amendment. That is why we should have kept it in the bill before. Frankly, we ought to keep it in now. Now, I fully understand that the White House comes out here and says: We don't want to tamper with these people. We don't want to put the brakes on them. They can get the votes to knock down this amendment, but it is wrong. It is wrong. And I suggest that some of those who lobby against this kind of amendment go to some of these funerals—go to some of these funerals—and tell them we will protect the people who are profiteering. It is wrong. It is wrong. We ought to be protecting them.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. LEAHY. Mr. President, I yield without losing my right to the floor, of course.

Mr. WARNER. A question: Is there some opportunity such that I can present the Senate with an explanation of why I felt there should be a second degree? I would like to do it in just a dispassionate, straightforward manner, and let the Senate then make its decision. So I would like to have the opportunity. I hope in due course to present my side of this issue.

Mr. LEAHY. Mr. President, regaining my right to the floor, of course I am willing to offer the appropriate courtesy, very soon, to the Senator from Virginia. He is one of the most distinguished Members of this body, and, more importantly, he and I have been close friends for over a quarter of a century.

I say to the Senator, I wonder if you might consider this: have a vote on your amendment, and have a vote on my amendment separately, and let the Senate work its will. The distinguished senior Senator from Virginia is going to be the Senate chairman in the committee of conference. It gives him that much more control. But why not let the U.S. Senate vote on each amendment separately and then see where it goes from there?

I will say this very frankly. I think the reason nobody moved to strike my amendment out of the appropriations bill was that—I heard this from both sides—they said: OK, we understand this is not a bad amendment, and we don't want to be on record as saying we are against it.

I think the reason both Republicans and Democrats in the Senate urged it upon the other body was for them. I think the obvious embarrassment by some, not all, but the obvious embarrassment by some who had to vote against it on the other side was they wished they had not. They wished they could have kept it in. So I would ask my dear friend from Virginia—and he is truly my dear friend—what do you think of that idea? Let's vote on both of them?

Mr. WARNER. Mr. President, as the Senator well knows, the distinguished leaders on both sides are now looking at that while I am engaging in debate with him. We are looking at that proposition.

I would like to have the opportunity at the earliest convenience to state the purpose for which I initiated the substitute amendment. And I think it is going to meet the majority of objections the Senator from Vermont has with his proposal.

Mr. LEAHY. Mr. President, certainly, if the distinguished Senator from Virginia wishes to speak, I am not going to withhold the floor from him. He has accommodated me when I have wanted to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my colleague. I will not try and make reference to the consideration of language similar to this underlying amendment and what occurred in the appropriations cycle and what occurred or didn't occur in the conference. I was not there. I don't have the specific knowledge. I am pleased that the distinguished Senator from Vermont, when I did discuss with him privately some of the earlier statements, has now corrected them. And I accept at face value what you have said about what took place in the appropriations cycle.

But we are now, at this point in time, on this bill, presented with this amendment and a second-degree submitted by myself.

First, the Senator observes that there is a need for legislation to impose criminal penalties on persons who commit wrongdoing in contracting in the course of our military operations. I concur with that very simply. So how best to do it, I think, is as follows.

My amendment would strike the language of the Leahy amendment and substitute language which would make it explicitly extraterritorial, which means we can reach out to these companies that are alleged to have done wrong and make applicable existing criminal statutes, statutes which have been on our books for a long period of time, which have been tested in the courts, and we know precisely what the language means.

My amendment would do the following. There are two existing Federal criminal statutes. The first is 18 USC 1001 dealing with false statements; and, secondly, 18 USC 1031, dealing with major frauds against the United States.

Those are the statutes, the body of law, which Congress put in place to deal with problems such as may be occurring in our operations in Afghanistan, Iraq, and, as the Senator said in his amendment, any other country in which members of the United States Armed Forces are engaged. So we have reached out not just to those two countries, Afghanistan and Iraq, but we have reached out to accommodate all of those areas. And these companies or individuals can be held accountable.

So the second-degree amendment takes care of the potential problems in covering overseas contracting without the problems inherent in the Leahy amendment.

I turn now to the Leahy amendment. This was the primary reason I put forward the second-degree amendment because you have added language. Frankly, I say with some modesty, I was a lawyer and a criminal prosecutor. But if I could draw your attention to section D in which you apply all of the penalties of your amendment, D says: Knowingly and willfully an individual or a contractor or an entity or corporation ''materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities in Iraq, Afghanistan, or such other country. . . .''

I say to my good friend, I am not sure what the derivation of that language is and the extent to which the courts have addressed that language in the context of not a civil but a criminal prosecution. So I pose that as a question.

Mr. LEAHY. If I might respond to that, they have. The Senator from Virginia asked whether they have done it in a criminal prosecution. No, this is not a criminal statute. They have done it in a civil case, and there is a huge amount of case law on this in civil cases. The only difference is, if the Senator is worried about the rights of contractors and others, in a criminal case, of course, you have to prove specific intent. In civil cases, you have to prove it with a preponderance of the evidence. Here you have to prove it beyond a reasonable doubt. But these are words of art: ''overvalues a good or service with specific intent to excessively profit from the war, military action. . . .'' Those are words of art. They have been interpreted by the courts.

The difference, again, as I said, if you are doing it in a criminal case, as the Senator from Virginia well knows, you have to prove it beyond a reasonable doubt.

''Excessively profit'' is taken from the renegotiation act, which is, as I said, a civil act. The constitutionality of that was upheld; I believe it was in the Lichter case.

Mr. WARNER. I thank my colleague. Let me bring to his attention that we are quite fortunate as a nation to have literally several thousand contractors engaged in supporting the men and women of the Armed Forces of the United States in many areas of the world. And now we are about to take

language which, as the Senator said, perhaps was a basis for a civil penalty and subject these thousands of contractors and individuals to the following language in your amendment: They ''shall be fined under paragraph (2), imprisoned not more than 20 years.''

I say to my good friend, we were taught in law school the difference between civil and criminal law. We were taught the tremendous burden of proof and so forth that is associated with depriving one of one's freedom and liberty. You are about to subject these contractors to that, up to 20 years, using only civil standards. I understand you have specific proof in there.

Mr. LEAHY. It has to be beyond a reasonable doubt. And I have prosecuted thousands of cases, tried hundreds of them as a prosecutor. I know that is one high hurdle.

Mr. WARNER. Mr. President, I can't remember. It has been too long. That is one of a senior citizen's benefits. But I spent 5 years as an assistant U.S. attorney in the criminal and appellate divisions of the courts here in the Nation's Capital. I point out to the Senator, I recognize the high bar. I am just saying I think the Congress should deliberate very carefully a criminal penalty of up to 20 years for these thousands upon thousands of companies that are currently engaged. Carefully, first go through a series of hearings, and then floor debate, rather than come up here and in a matter of an hour or two of time try and make the decision to impose criminal law on an existing framework of contractor support at the very time we are engaged in combat operations in Iraq, Afghanistan, and, to a lesser extent, in other parts of the universe.

The Senator is asking the Senate to take a very serious step. That is why the substitute amendment would incorporate, if adopted, a statute—basically existing law—and extraterritorial ability to reach the company under existing law in title 18.

Mr. REID. Does the Senator from Vermont have the floor?

The PRESIDING OFFICER. The Senator from Virginia controls the floor and has yielded only for the purpose of allowing an inquiry to be made through the Chair.

Mr. WARNER. If the Democratic whip wishes to address the Senate, I am more than happy to allow that.

Mr. REID. I will wait my turn.

Mr. LEAHY. Will the Senator yield for a question?

Mr. WARNER. Absolutely, Mr. President.

Mr. LEAHY. My question to the distinguished senior Senator from Virginia probably reflects my confusion. He was concerned about the 20-year penalty to which this might subject some of these contractors. Obviously, thousands of contractors are not going to be subjected to that. It is only going to be the most grievous ones.

He is proposing, if I am correct, a statute that would subject overseas contractors to a 30-year penalty. I thought I was a tough prosecutor. The Senator from Virginia complains about my 20-year penalty; he is proposing 30 years. I don't mean to get into a bidding war on penalties, but if my 20 years is too Draconian, 30 years sounds even more so.

Mr. WARNER. Mr. President, I will reply to that. My criminal penalty is under existing statutes, which were carefully debated by the Congress and have been on the lawbooks for a number of years. I will soon address the Senate as to how long these statutes have been in place. That is the basic difference.

My statutes don't have in it ''materially overvalues any good or service.'' I say to my good friend, that is too vague on which to send someone, as we used to say, as an old prosecutor, ''up the river.'' I don't care whether it is 20 or 30 years. I don't know how the burden of proof of ''materially overvalues'' is reached. You are asking for a criminal penalty predicated on that phrase.

Mr. LEAHY. Mr. President, if I may respond without the Senator losing his right to the floor, he is relying on a statute—if I recall, without hearings; there was an amendment to the Sarbanes-Oxley bill a couple years ago on the floor. If we are talking about criminal statutes and changing them by whim, that is one that said no more debate on this. I am bringing up something that was debated rather thoroughly in the Appropriations Committee, including a bill the Senator from Virginia and I voted for last year.

Mr. WARNER. Mr. President, I wonder if the Senator could point to the RECORD in which the Senate—in the course of the deliberation on the Appropriations bill in which his amendment is included—debated that.

The PRESIDING OFFICER. Without objection, the Senator from Vermont is yielded to for the purpose of answering a question.

Mr. LEAHY. It was debated, of course, in committee. It was well noted here before all Senators. Nobody, either Republican or Democrat, made the normal motion to strike that was done when you have a part to which you object. The Senator from Virginia is right that this is slightly different. That one was just for Iraq. This includes Afghanistan and elsewhere and does not contain a sunset provision.

I must admit that we are somewhat inclined to do that, especially after hearing of these e-mails that have just been made public. We are not talking about somebody who shows up and provides five dozen baseball caps to one of our military groups somewhere around the world. We are talking about people getting a billion dollars, with no-bid, no-competition contracts. I think we ought to at least be able to look at them and make sure they are spending our money correctly.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, my colleague has challenged me on the underlying statute that I include in my amendment. I draw his attention to the title 18, section 1001. That statute was put on in 1948.

Now, the second statute I utilize is 1031, which was adopted in 1988. So the first was in 1948; the next was in 1988.

I question my friend, who challenged me that they were just adopted, it seems to me that both of these Federal laws have been on the books for a sufficient time to have been examined by the courts and others.

Mr. LEAHY. Mr. President, I am confused by the response. Is the Senator saying that section 1001 of title 18 was not amended by the Sarbanes-Oxley Act about a year and a half ago?

Mr. WARNER. It might have been amended.

Mr. LEAHY. Whatever it was——

Mr. WARNER. On October 11, 1996, there was one amendment.

Mr. LEAHY. It was not increased back in—if the Senator tells me the Sarbanes-Oxley Act was not amended on section 1001 at all, I will accept that.

Mr. WARNER. I am reading from the Federal Criminal Code, 2004 edition. I imagine it supersedes the 2003 edition.

The point is that the statute, 1001, originated on June 25, 1948. This shows the last amendment to be October 11, 1996. Very clearly, I think my good friend has to acknowledge that this is proof that the two statutes upon which I rely have clearly been on the books for a considerable period of time and have been presumably tested in the courts and otherwise. That is the basic difference.

I can find no reference in the Criminal Code to the use of the language that my good friend uses here, ''materially overvalues.'' I think that is too vague a standard upon which to send anybody up the river. I don't care whether it is 20 or 30 years, or whatever period of time.

Mr. LEAHY. Mr. President, is it the position of my friend from Virginia that the kinds of things we have heard about—and he sees it more than I do as chairman of the Armed Services Committee—about the hundreds of millions of dollars being overcharged in meals, and hundreds of millions of dollars being overcharged on vehicles, housing, and construction. Any of those would be covered by his statute.

Mr. WARNER. That is a legitimate question. I answer in the affirmative, that the anecdotal types of things we have discussed on the floor would be covered by the existing criminal statutes, provided they found the requisite level of ''beyond a reasonable doubt.''

I challenge my friend, I cannot find any criminal law that employs this type of verbiage that he seeks here. There is reference in civil statutes to that type of language, but the Senator from Vermont is now asking that these words become a part of the criminal statute.

I think what is going to happen, if your amendment will be adopted, is

that this infrastructure of tens of thousands of individuals and companies out there right now is going to say: We are out of this; we are not going to subject our people, we are not going to subject our business to the risk of this type of prosecution under these vague standards of ''materially overvalues any good or service.''

Mr. LEAHY. Mr. President, if I might, obviously the statutes on the books have not stopped them from overcharging, have not stopped them from the kinds of things we have seen.

Nobody wants to use the word ''Halliburton'' around here, but we constantly pick up the paper and read about a number of these companies. They are obviously overcharging, and nothing is happening to them. I am just one frustrated American who wants them to stop.

Mr. WARNER. I have a very quick and simple answer to the Senator's question. Adoption of the amendment by the Senator from Virginia would be the first time the jurisdiction of these two titles is extended beyond the shores. Criminal convictions could be brought against defendants, if my amendment is adopted.

Mr. LEAHY. Mr. President, will the Senator yield for another question?

Mr. WARNER. Yes.

Mr. LEAHY. Let me ask the Senator from Virginia this: Suppose we have an item, and one of these contractors about which we are talking charges $2,000 for an item. It cost him $5. We remember back to the days of the $500 hammer. He charges the Government $2,000 for an item that costs $5, but he does not lie about this. He does not conceal the cost. He simply says: Here is my bill.

He says: OK, it is $2,000. He paid $5. He does not conceal that cost. He does not lie. He just says: Here is the bill for $2,000. He has not lied. He did not conceal—the bill is not hidden somewhere else. It is a straight-out bill, but he is obviously gouging the Government, charging $2,000 for a $5 item. Does the Senator's statute cover that situation?

Mr. WARNER. Section 1031 of title 18, ''Major fraud against the United States'':

Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent to defraud the United States—

That is fairly broad.

Mr. LEAHY. That is not a scheme. He said: I just delivered this widget. Here is your bill for $2,000. And there are so many other things going on, the Government says: Here is your 2,000 bucks. It is not a scheme. It is not an artifice. He is not hiding the fact at all. He said: Here is your bill for $2,000 and somewhere gets paid in the bureaucracy. He has obviously gouged. He has not lied about it. He is up front about it. Does the Senator's statute cover that because that happens a lot?

Mr. WARNER. Mr. President, this framework of laws embraces enough provisions that they could establish a case of fraud using the example the Senator from Vermont stated because the contract will have provisions in it with regard to the amount of profit, and there would have to be some reasonable examination of that. The contract is not going to be silent on that issue.

Mr. LEAHY. Mr. President, is the Senator from Virginia saying, then, it would require fraud?

Mr. WARNER. I am reading the statute. That is what it says here:

Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent to defraud the United States—

And the contract is going to set the profit margins.

Mr. LEAHY. We are getting a lot of no-bid contracts with basically the company, as we found in these e-mails, saying: Here is what it is going to be.

There are no bids. There is nothing else. The Government says: OK, go forward. But there is no question there has been war profiteering there. There has been no fraud, no artifice, nothing else. He just sent the bill, and the bill gets paid. It is profiteering, but I do not see where your statute covers that situation.

Mr. WARNER. Would that be in the nature of some sort of trick they were trying to perform?

Mr. LEAHY. Mr. President, if I may respond, they realize there are not going to be bids on this contract. They realize it is going to be OK'd as soon as they send it in. They have not done any tricks at all. They just say: Here is our bill. There is nobody else bidding, and it gets passed.

Some may say that may be fraud; that may not be. Mine does not say maybe. It just says to do it is a crime.

Mr. WARNER. Let's look at section 1001:

Except as otherwise provided in this section, whoever, in any matter within the jurisdiction—

So forth—

knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement, or representation; or

(3) makes or uses any false writing or document knowing the same to contain—

I say to my good friend, these statutes cover most of the situations, if not all, in which there could be a wrong perpetrated, a wrong of the type you say is profiteering.

To bring this to a conclusion, the very fact that the two of us have had some experience and cannot reconcile differences on the meaning of the language of the Senator from Vermont brings home the fact we should not be asking our colleagues to make that the law of the land on a vote this afternoon after this short debate. The Senator is bringing a brandnew dimension into the Criminal Code.

Mr. LEAHY. Mr. President, if I might respond to that, it is not a brandnew dimension. It is basically what we had in the Appropriations bill last year.

Secondly, it is completely appropriate to apply this new law to Iraq when we see these huge cost overruns on no-bid contracts, and nobody seems to be held accountable. Defense offered by lawyers for the contractor might be that there are no false statements and, therefore, no crime, even though one is ripping off the taxpayers.

It is similar to the guy who comes in and says: I will sell you this hammer for $2,000. He is not claiming it is a $2,000 hammer. He is not claiming he paid more than $5 for it. He says: I will sell it for $2,000. Has he made excess profit? Of course, he has. But when it comes to the point when our men and women are putting their lives on the line while others sit back in the boardrooms in America, I think every single lawyer in these boardrooms is going to know exactly what this amendment does, and it will be a strong deterrent.

Mr. President, as the White House proved last year when this amendment was debated during the Iraq supplemental conference, I am sure the Senator can pull up the votes to defeat me. I think it is a mistake. Frankly, I will keep on trying to bring up commonsense amendments to prevent war profiteering. Maybe sooner or later some of these people in the same boardrooms who are involved, who are getting no-bid contracts, may think: Maybe we better slow up because maybe one day the Senate will actually say we are going to hold you accountable if you engage in this sort of activity.

The PRESIDING OFFICER. The Senator from Virginia controls the floor.

Mr. WARNER. I think we are at the point, unless there are other colleagues who desire to discuss this—does the Senator from Alabama wish to speak?

Mr. SESSIONS. I will just make a few brief comments, if that is appropriate.

Mr. WARNER. Yes.

The PRESIDING OFFICER. Does the Senator from Virginia yield for a question from the Senator from Nevada?

Mr. WARNER. Yes, of course, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I was wondering if the Senator from Virginia had yielded the floor, but he has not.

Mr. WARNER. I was hoping I could yield to the Senator from Alabama for a question or observation.

Mr. SESSIONS. Well, I want to make a comment or two unless the debate is basically finished, in which case I have an amendment that will hopefully come up a little later that covers some of these same issues. I have some observations that I would like to share about this particular amendment. I would not be able to support it, and I wish to explain why, but if the Senator is ready to move along, I am willing to yield the floor and move along.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we are trying to complete this Defense bill. The

Senator from Vermont has made his case. The Senator from Virginia has made his case. The record should be spread with the fact that Senator LEAHY is going to get a vote on his amendment before we finish this bill, and I would hope we could move on. As far as I am concerned, the issue is very clearly defined. I have heard people ask all during the day, What is happening with this bill? Why can we not move it more quickly?

The Senator from Michigan, the manager of this bill on the side of the minority, and I have worked very hard the last 24 hours to try to clear amendments, and on our side there are a definite number of amendments. As I understand it, this is our 11th day on this bill. We have spent weeks on these bills in the past. We know the importance of the Senate agenda. There are so many other things to do. We have just wasted a tremendous amount of time, obviously for the reasons the majority does not want to vote on Senator LEAHY's amendment. So I would certainly hope that everyone understands that anything that is being slowed down on this bill is not because of us.

There are a number of issues we need to debate on a Defense bill. Certainly, we should have an amendment that deals with end strength; that is, what should be the troop levels. The person who is offering that amendment is a graduate from West Point, a retired major from the Army. Certainly, Senator JACK REED of Rhode Island is qualified to offer that amendment. We should do that. We should get to that.

Another issue that we need to debate is the missile defense system. Some feel very strongly that it is an important program on which we should spend lots of money. Others believe we are spending too much money on it. That is an issue that should be debated.

The distinguished senior Senator from Delaware wishes to offer an amendment to cut some of the higher tax cuts that were given and have those moneys spent on Iraq.

We have a number of important issues. There are a number of issues that may not seem important in the overall scheme of things, but to the individual Senators they are extremely important.

I repeat, I want everyone to understand we are doing everything we can to move this bill along. In the last several days, we have heard threats of filing cloture because we are slowing the bill down. We are not slowing the bill down. Nothing can be guaranteed around here, but I would certainly suggest if there is a cloture motion filed on this bill, I do not think the majority is going to get cloture on this bill. We want the opportunity to offer a few amendments.

Now, we all understand that President Reagan died. There is never a good time for someone to pass away. We all felt so strongly about President Reagan, and we joined in the celebration of his life last week. But we should not be punished on this bill because of that. So I would hope that we could move this bill along.

As everyone knows, tonight we are not going to be able to go very late. We can finish this bill, but we are not going to finish the bill tomorrow. We cannot finish the bill tomorrow.

I have said on this floor so many times—but when something is good, it has to be repeated—there are no two finer people in the Senate than the distinguished senior Senator from Virginia and the distinguished senior Senator from Michigan, the two managers of this bill. But we have to move on.

Through the Chair, I say to my friend, the chairman of this most important committee, we are not trying to slow this bill down. We have done what we can to move it forward, but I have stated there are some issues that we must address. We are going to continue to work. I have talked to the Democratic leader on many occasions. He is, of course, always aware of what is going on on the floor. He wants this bill completed as much as the rest of us. So I would hope that we could get a vote on the amendment of Senator LEAHY as rapidly as possible and move on.

I do not know if this is true, but I have been told the majority wants to vote on some judges tonight. That is also going to take some time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in reply to the distinguished Democratic whip, I certainly commend him. I would say to him that practically as long as I have been in the Senate he has been on the floor for the Senate authorization bill all these many years and has been a tremendous help to us, and he continues at this moment. I assure him we are working on a UC which I hope will accommodate the distinguished Senator from Vermont and his requirements. So I am simply asking for a few minutes on which this matter may be presented to the Senator, unless someone wishes to speak.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if my friend from Virginia would yield for a question relative to his amendment?

Mr. WARNER. Yes, of course.

Mr. LEVIN. I listened to most of the debate—I had to leave for a moment.

Mr. WARNER. Yes.

Mr. LEVIN. I understand the position, or the statements of the Senator from Virginia. Much of his opposition to the language of the Senator from Vermont is that it is in the form of a criminal statute.

Mr. WARNER. Well, not exactly. We will just have a colloquy. Mine is likewise a criminal statute.

Mr. LEVIN. I understand that.

Mr. WARNER. They are both criminal, except mine uses the underlying statutes and legislation adopted into law after the normal process through the Senate.

Mr. LEVIN. I do understand that. There is no reason both of these amendments should not be adopted. They are perfectly consistent with each other.

Mr. WARNER. Oh, no, I cannot buy off on that. There is one portion of the amendment of the Senator from Vermont which is a brandnew concept being introduced of standards for criminality, and I cannot accept that.

Mr. LEVIN. That is my question to my friend from Virginia. My question is, Is the objection to his language that it is a criminal statute—if this, for instance, simply restored the civil penalty for this material overvaluation of a good and service, would the Senator from Virginia still object to it?

Mr. WARNER. Well, I would have to look at it. At this late hour, with votes momentarily to occur, I would not want to conjecture. My predicate is that criminal penalties deserve the most exhaustive consideration by the legislature, be it State or Federal. This new standard that my colleague from Vermont has raised has a legislative as well as a judicial history in civil penalties. It does not have a comparable record in any Federal system.

Mr. LEVIN. Which is the reason—if I can be recognized?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. The reason I sought the floor to ask the Senator from Virginia the question is because the argument he makes seems to be based on a premise that there is a civil penalty history to this language but not a criminal penalty history. It would seem to me that would be greater protection for any potential defendant or contractor because there is a higher standard of proof.

But putting all that aside, my question is, then, would there be any objection to simply restoring the civil penalty for that violation, material overvaluation of any good or service? Since the Senator says there is a history in terms of civil penalties for that activity, then I was very curious to find out whether he might object if we simply restore the civil penalty for that violation.

Mr. WARNER. Mr. President, it is a situation I would want to examine with great care and see how it is phrased. I think right now we have two very distinct pieces of legislation before this body. This is legislation proposed by the Senator from Virginia which is predicated on statutes that have been in existence for a number of years—one, 1948 is the origin; the second is 1988. We simply extend the jurisdictional reach of those statutes to areas in which these contractors are performing beyond the continental boundaries. It is a very clear way of bringing to justice those operating beyond our shores. To me, that does it. I am firmly opposed to the introduction into the criminal statutes a standard of criminality which I feel is far too vague to support the extreme of deprivation of

life, liberty, and freedom—not life, perhaps, but liberty and freedom.

Mr. LEVIN. If I could reclaim the floor, what the amendment of the Senator provides, and I have no objection to it although I don't believe it adds much to existing law—I don't have any objection to the Senator's amendment making clear there is this extraterritorial jurisdiction. That is fine. But what it leaves out is the language previously in the law providing for a civil penalty for material overvaluation of a good or service. What it says is ''with the specific intent to excessively profit.'' That is a specific intent which is appropriate, I believe, either to civil or criminal law. From my perspective, this can be either civil or criminal. But the key point is that the amendment of the Senator does not include that subsection 1(d), which, it seems to me, is essential if we are going to get to that profiteering issue which the amendment of the Senator from Vermont gets to.

But I would be interested, if the amendment of the Senator from Vermont is defeated, and I hope it is not, as to whether then the Senator from Virginia might accept a civil penalty for this exact same language which was previously a civil penalty.

The PRESIDING OFFICER. Without objection, the Senator from Virginia is recognized to answer the question.

Mr. LEVIN. And I yield the floor.

Mr. WARNER. In reply, I think you framed the question very clearly. My response I hope is equally clear. I could not make a proffer as to what I might do until I have looked at it. I want to know how this particular language is employed in those civil penalty provisions. It may have added words in it. I haven't read any of those clauses, so I would have to wait. But you have accurately stated there is a very significant difference between the legislation proposed by the Senator from Virginia and the legislation proposed by the Senator from Vermont.

I think at this point we are about ready to receive the unanimous consent proposal; am I not correct?

Mr. REID. Close.

Mr. WARNER. I have been informed by the distinguished Democratic whip that we are close, in which case I suggest the absence of a quorum, at which time we can all draw a breath.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, the leadership has been working with the managers and has worked out a unanimous consent request which I would like to propound to the Senate at this time.

I ask unanimous consent that at the hour of 4:30 today, the Senate proceed to a vote in relation to the Warner amendment No. 3452, which is to be modified to be in the form of a first-degree amendment, to be followed by a vote in relation to the Leahy amendment No. 3292, with no amendments in order to the amendments prior to the votes; I further ask consent that following those votes, the Senate proceed to executive session and immediate votes on the confirmation of the following: Executive Calendar No. 567, William Duffey; No. 590, Lawrence Stengel; No. 607, Paul Diamond.

I further ask consent that following those votes, the President be immediately notified of the Senate's action and the Senate resume legislative session.

I finally ask consent that following those votes Senator SESSIONS be recognized in order to offer his amendment No. 3372, which is to be further modified with changes that are at the desk; provided further that following 10 minutes of debate equally divided in the usual form, the amendment be agreed to.

Mr. REID. Reserving the right to object, I would ask the distinguished Senator to modify the request to allow 2 minutes prior to the votes on Mr. Duffey, Mr. Stengel, and Mr. Diamond.

Mr. WARNER. So modified.

Mr. REID. I would also ask the distinguished chairman of the committee, we understood there would be an up-or-down vote on the second-degree amendment offered by the chairman and also an up-or-down vote on the amendment offered by the Senator from Vermont.

Mr. WARNER. My understanding is, that is correct.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the managers of the bill are grateful to the leadership for the cooperation we are getting in moving this bill along, as well as all Members. We have had a preliminary meeting with regard to tomorrow's schedule. I would like to acquaint the Senate with the thinking at the moment with the leadership.

We would start off the morning with no morning business, proceeding promptly to the bill at the hour of 9:30, with the first amendment to be brought up on our side, the Bond-Harkin amendment. Am I correct on that?

Mr. LEVIN. That is my understanding.

Mr. WARNER. We will try to establish time agreements during the course of the votes today. That is to be followed by the Reed amendment which goes to end strength, a very significant issue. That amendment currently has an amendment in the second degree, not an amendment which is a substitute but just an amendment. That is under consideration and will be debated at that time and then, in all probability, a voice vote, not on that, a voice vote on the first one I hope, but on the second there would likely be a rollcall.

Mr. REID. Will the Senator yield?

Mr. WARNER. Yes.

Mr. REID. In our conversation on the floor, we talked about what we wanted to do. We did talk about Bond-Harkin, Reed end strength. I ask the two distinguished managers of the bill, because of the difficult schedule that the ranking member of the Foreign Relations Committee and the minority leader have on Friday, if we could have one amendment that the Senator from South Dakota is going to offer dealing with health. He would take a very short time agreement on that. And the Senator from Delaware wishes to offer an important amendment dealing with taxes, and he will take a relatively short period of time. He has to decide that. But we are talking about this before we get to missile defense. They say they would certainly like to get that done because, as you know, their schedules are extremely difficult in the next day or two.

Mr. WARNER. That is a new dimension which I have not had the opportunity to review.

Mr. REID. At least we got it down a little ways.

Mr. WARNER. We will take that into consideration. I cannot commit at this point in time, but I do know there is an amendment by the distinguished Senator from Delaware regarding taxation.

Mr. REID. That is the one.

Mr. WARNER. I see.

Mr. LEVIN. After Daschle.

Mr. REID. And Senator DASCHLE would take a very short time agreement. We have not had the opportunity to fully vet this with Senator BIDEN other than he wanted to get up early because of his schedule on Friday, but we will discuss this with them.

Mr. WARNER. I defer to my colleague here with regard to the very important amendments on missile defense.

Mr. LEVIN. Before I make reference to the missile defense amendments, which it is our hope that we would be able to take up and dispose of tomorrow, the reference that the chairman made to the end strength amendment, I understand the Senator from Rhode Island, his end strength amendment at the moment could lead to a second-degree amendment.

Mr. WARNER. It is at the desk.

Mr. LEVIN. But there is still an effort being made, as I understand it, to see if there can't be a resolution to that.

Mr. WARNER. Fine. Mr. President, the Senator from Rhode Island approached the Senator from Virginia earlier today, and he said he would provide some language. Thus far, we haven't had that opportunity.

Mr. LEVIN. We are also hoping to dispose of either three or four amendments tomorrow relative to missile defense. We would like to talk to the Senators involved in that during these votes. But I believe the logical order here is that the Boxer amendment be first and then Reed, either one or two amendments on missile defense after the Boxer amendment, and then I would have an amendment after the Reed amendments. That is the current informal intention. We would talk to those Senators to see if they agree that that is the logical order, try to get time agreements on all of these amendments.

Mr. WARNER. Mr. President, to conclude this brief colloquy, I am not able to speak to the Daschle amendment or the Biden tax measure. I will have to engage people on the tax committee to look at that. The others, I would say, as chairman and I hope you as ranking, if we are able to get through the agenda we have outlined, this bill is really down in its final stages; would you not agree?

Mr. LEVIN. Well, there are a lot of outstanding amendments.

Mr. REID. If the distinguished chairman will yield, Senator DASCHLE would be happy to wait until Monday with a very short time agreement. But we do have some other amendments on this bill.

Every year, as you know, there are a few abortion amendments. They don't take a lot of time because we have debated a number of them on previous occasions. We have a number of other issues. But as we talked about earlier today, if we do end strength and missile defense, we get Senator BIDEN's amendment out of the way, the others should go fairly quickly.

Mr. LEVIN. If the Senator will yield, in fairness to our colleagues, we do have listed a number of amendments from a number of colleagues who expect—and I think reasonably so—their amendments would be addressed before this bill goes to final passage. I wouldn't want to give an assessment that we are near the end because there are many Senators. We are, by the way, successfully reducing the number of amendments. We want to give credit to Senator REID as always for his Herculean efforts in this regard. We have, under his leadership on our side, been able to successfully reduce the number of outstanding amendments, but there are still many left.

Mr. WARNER. I would say in response to that, we have likewise successfully reduced and I think have only one left on our side compared to what you may have before you.

Mr. REID. If the Senator will yield.

Mr. WARNER. Yes.

Mr. REID. I don't usually deal in the minutia of things, rather broader issues. But I just wanted to say something to the distinguished Democratic leader of this important committee, I do believe we are near the end. I say that because we have been on this bill 11 days. If we spend a few more days on it, we are near the end.

Mr. LEVIN. If we spend a couple more days, yes, we are near the end.

Mr. WARNER. Wait a minute, let's just leave it ''we are near the end.''

Mr. LEVIN. I subscribe to my leader's comment.

Mr. WARNER. I thank the distinguished Democratic whip and my colleague from Michigan. The unanimous consent agreement is in order. The vote should start momentarily.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask the distinguished manager, I understand that the measure that Senators HARKIN, TALENT, GRASSLEY, and I have proposed is in order for 9:30 tomorrow morning.

Mr. WARNER. Yes. Could the Senator, in the interim, talk to his cosponsors on both sides of the aisle and give me an estimate of the time that would be required?

Mr. BOND. We hope it will be brief. We will talk with you. We hope that perhaps it may be accepted.

Mr. WARNER. Without a rollcall vote.

Mr. BOND. I would like to spare the body a rollcall vote.

The PRESIDING OFFICER. Under the previous order, amendment No. 3452 is modified to be a first-degree amendment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—97

Akaka	Campbell	DeWine
Alexander	Cantwell	Dodd
Allard	Carper	Dole
Allen	Chafee	Domenici
Baucus	Chambliss	Dorgan
Bayh	Clinton	Durbin
Bennett	Cochran	Ensign
Biden	Coleman	Enzi
Bingaman	Collins	Feingold
Bond	Conrad	Feinstein
Boxer	Cornyn	Fitzgerald
Breaux	Corzine	Frist
Brownback	Craig	Graham (SC)
Bunning	Crapo	Grassley
Burns	Daschle	Gregg
Byrd	Dayton	Hagel
Harkin	Lott	Sarbanes
Hatch	Lugar	Schumer
Hollings	McCain	Sessions
Hutchison	McConnell	Shelby
Inhofe	Mikulski	Smith
Inouye	Miller	Snowe
Jeffords	Murkowski	Specter
Johnson	Murray	Stabenow
Kennedy	Nelson (FL)	Stevens
Kohl	Nelson (NE)	Sununu
Kyl	Nickles	Talent
Landrieu	Pryor	Thomas
Lautenberg	Reed	Voinovich
Leahy	Reid	Warner
Levin	Roberts	Wyden
Lieberman	Rockefeller	
Lincoln	Santorum	

NOT VOTING—3

Edwards	Graham (FL)	Kerry

The amendment (No. 3452) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. I asked unanimous consent—I have discussed this with the senior Senator from Virginia—that we have 2 minutes equally divided on the next amendment.

Mr. WARNER. Two minutes on each side.

Mr. LEAHY. Two minutes is fine with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Madam President, I do not want to start until the Senate is in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Vermont.

Mr. LEAHY. Madam President, I voted, as did others, for the Warner amendment even though I see it as only the tiniest step toward addressing what we read about in the paper every single day, and that is war profiteering in Iraq. His amendment does not cover war profiteering; mine does. In fact, his, I believe, removes my prohibition against war profiteering. What I have in here is an amendment, very similar to what we passed in the appropriations bill earlier, about real war profiteering.

This Monday I was at the funeral in Vermont of a young sergeant who was killed in Iraq, just as my wife and I have been at other funerals of Vermonters killed over there, and I suspect most Members of the Senate have. They are over there defending their country. They are over there doing what their country asked them to, being paid as corporals and sergeants, and dying.

We have a lot of other people sitting in boardrooms back here in America, watching enormous profits, watching the American taxpayers pay for things that are never delivered, for trucks that are never there, for meals that are never there, and we can't stop them. My amendment would stop them. My amendment would put, if not patriotism in them, it will put the fear of going to jail in them.

Let us stand up for our American men and women over there. Let us stop the war profiteers. Let us say no to them, and let us say, if you continue, you are going to go to jail because that is where you belong.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, my amendment does everything that my colleague stated as a desired goal. His amendment goes a step further. This is the reason we have two votes. He establishes a new criterion for a crime that could result in incarceration up to 20 years. It is so vague that I assure you it could not get through the first year of law school. It says you could go to jail if ''you materially overvalue any good or service.'' There is no regulation, no criterion by which to judge that. As a consequence, this body would be enacting a new criminal statute without any hearings, without any thoughtful process, and would subject the contracting community, which numbers in the tens of thousands of individuals supporting the men and women of the Armed Forces all over the world, to this very vague proposed criminal statute.

I urge strongly that you vote against the Leahy amendment.

I regret that, I say to my good friend, but we cannot put on our books this statute. It would be wrong.

Mr. LEAHY. Madam President, my amendment very simply says to the Halliburtons all over the country that you can't profit on the backs of our men and women in Iraq or Afghanistan. We all know that is what it is.

The PRESIDING OFFICER. The Senator's time has expired.

Does the Senator from Virginia yield his remaining 35 seconds?

Mr. WARNER. Yes, Madam President. I yield it knowing that the good wisdom and sound judgment of this body will follow my views.

Mr. LEAHY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—46

Akaka	Byrd	Dayton
Baucus	Cantwell	Dodd
Bayh	Carper	Dorgan
Biden	Clinton	Durbin
Bingaman	Conrad	Feingold
Boxer	Corzine	Feinstein
Breaux	Daschle	Graham (FL)
Harkin	Leahy	Reed
Hollings	Levin	Reid
Inouye	Lieberman	Rockefeller
Jeffords	Lincoln	Sarbanes
Johnson	Mikulski	Schumer
Kennedy	Murray	Stabenow
Kohl	Nelson (FL)	Wyden
Landrieu	Nelson (NE)	
Lautenberg	Pryor	

NAYS—52

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NOT VOTING—2

Edwards	Kerry

The amendment (No. 3292) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, this afternoon, while debating my amendment on war profiteering, we became mired in a debate about what is or what is not in the criminal code.

I will not revisit that issue now. However, I will say to the senior Senator from Virginia, who asked from where the language in my amendment originated in the criminal code, that I have more information on that issue that should be to his satisfaction.

First, the term ''material'' appears in terrorism laws prohibiting ''material'' support. In fact, all falsity in the criminal code must ''material''. Pursuant to a Supreme Court ruling, part of proving a false statement must be ''material.''

Second, the term ''overvaluation'' is in Title 15 prohibiting ''criminally overvaluation'' of securities.

Third, with respect to ''intent to excessively profit,'' this is taken, in part, from ''significantly profit'' in 12 U.S.C. 1297 which criminalizes bank crimes. ''Significantly profit'' is, in fact, a lower standard that ''excessively profit.'' We erred on the side of caution and raised the standard.

Although I made this point clear during the debate, this should leave no doubt that my amendment is carefully constructed legislation.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, my understanding is we will now go off the bill. We will remain off the bill for the remainder of the evening. We now have three votes on judicial nominations. I stand corrected. After the votes on the three judicial nominations, there is a short matter with Senator SESSIONS. It is in the UC.

Madam President, I ask unanimous consent that the votes for the three judicial nominations be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF WILLIAM S. DUFFEY, JR. TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session, and the clerk will report the first nomination.

The legislative clerk read the nomination of William S. Duffey, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

The PRESIDING OFFICER. There will now be a period of 2 minutes evenly divided on the nomination.

Mr. HATCH. Mr. President, I am pleased today to speak in support of William Duffey, who has been nominated to the United States District Court for the Northern District of Georgia.

Mr. Duffey is a cum laude graduate of South Carolina University Law School, where he had been a member of the Order of the Coif. His illustrious legal career includes a tour of duty in Turkey with the U.S. Air Force; deputy and associate independent counsel with the Office of the Independent Counsel's Whitewater investigation; and a long, successful law practice with the prestigious firm of King & Spalding.

Mr. Duffey is a gifted and experienced attorney whose familiarity with Federal trial procedure will benefit him immensely on the Federal bench. I am confident that he will make a fine jurist on the Federal bench.

Mr. CHAMBLISS. Madam President, I rise in support of the confirmation of William S. Duffey to be a district judge for the North District of the State of Georgia.

Bill Duffey is a well-respected lawyer in our State, one of the best lawyers in the State of Georgia. He has served in private practice. He served in the Judge Advocates Corps of the United States Air Force. He served in the Office of the Independent Council.

For the last 4 years, Bill Duffey has served as the U.S. attorney for the Northern District of Georgia. He comes highly recommended by his peers, by those who have appeared before him, as well as those who have been on the other side in cases.

He is a true gentleman in every sense of the word, an outstanding advocate for the judiciary. He will make an excellent judge, and I ask for his confirmation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, it is interesting, I think I heard one of the

Republican campaign committees talking about Democrats treating the South unfairly on judges. Southern States comprise about 25 percent of the States, but 60 of the nominees, about one-third of the nominees, have come from the South. With my colleagues, I have moved to get virtually all of them through.

Today we are asked to consider the nomination of William S. Duffey, Jr., to the Northern District of Georgia. The ABA found Mr. Duffey to be well-qualified to be a district court judge. He also has the support of both of his home State Senators.

Mr. Duffey is currently serving as the United States Attorney for the Northern District of Georgia. Prior to this Presidential appointment, he was in private practice and served for a number of years under the Office of the Independent Counsel during the 1990s. In this capacity, Mr. Duffey had administrative and general oversight responsibility for investigative activities and staffing in Arkansas. I questioned Mr. Duffey about two speeches he gave about his involvement in the Whitewater investigation. For example, while serving as the United States Attorney in northern Georgia and using the seal of that office, Mr. Duffey recently gave a speech entitled ''Whitewater, White Powder and White Paper'' at a local university. Despite his use of pejorative editorial cartoons, Mr. Duffey claimed that this speech was really about the value of public service. I am somewhat reassured by Mr. Duffey's answers to my questions and hope that if he is confirmed, he will avoid appearances of impropriety and conduct himself in a manner beyond reproach.

I would also note that some have falsely alleged that Democratic Senators have treated Southern nominees unfairly. That is simply untrue. The truth is that Democrats have treated judicial nominees from the South very fairly: Southern States comprise about 25 percent of the States in the Nation, yet out of the 184 judicial nominees of President Bush that we have confirmed as of this vote, 60 nominees, or about one-third, have been appointed to judicial seats in the South. With this vote there will be no vacancies in the entire State of Georgia. Senators on this side of the aisle worked to fill the last vacancy in Georgia. Judge C. Ashley Royal was confirmed December 20, 2001, under Democratic leadership to be United States District Judge for the Middle District of Georgia.

It is very unfortunate that some extreme partisans have tried to divide the American people for political gain with their false accusations that Democratic Senators are anti this group or that group. Democrats have been fair to judicial nominees from all parts of the Nation. We have been far more fair to this President's judicial nominees than Republicans were to the last Democratic President's. Republican Senators blocked more than 60 of President Clinton's judicial nominees, including several southerners.

I congratulate Mr. Duffey and his family on his confirmation today.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of William S. Duffey, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Indiana (Mr. LUGAR) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 121 Ex.]

YEAS—97

Akaka	Dodd	Lott
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lincoln	

NOT VOTING—3

Edwards	Kerry	Lugar

The nomination was confirmed.

NOMINATION OF LAWRENCE F. STENGEL TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of Lawrence F. Stengel, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. There will now be a period of 2 minutes of debate, equally divided.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I have sought recognition to speak in support of the nomination of Lawrence F. Stengel for the U.S. District Court for the Eastern District of Pennsylvania.

Lawrence Stengel, who is currently a State common pleas judge in Lancaster County, PA, comes to this nomination with an outstanding background. He has a bachelor's degree from St. Joseph College in 1974 and a law degree from the University of Pittsburgh in 1980. He has an outstanding record in the practice of law, having maintained a practice as a sole practitioner for some 5 years, which is something in this day and age.

For the past 14 years, he has been a State court judge and has established an enviable reputation in Lancaster County. In addition to his judicial duties, he serves as an adjunct professor at Franklin and Marshall, and also as an adjunct professor at Millersville University, demonstrating his versatility and capability.

I have every reason to expect a strong vote.

I yield back the remainder of my time.

Mr. HATCH. Madam President, I rise today to voice my strong support for the nomination of Judge Lawrence F. Stengel for the United States District Court in the Eastern District of Pennsylvania. Judge Stengel has an impeccable record as both a jurist and practitioner, and this body would be wise to confirm him to the Federal bench.

Judge Stengel comes to the floor with not only my strong support, but also the unanimous support of my colleagues on the Judiciary Committee. Before consideration in the committee, Judge Stengel received a ''well qualified'' rating from the ABA—the oft quoted ''gold standard'' for judicial nominees. An alumnus of my alma mater, University of Pittsburgh Law School, Judge Stengel has served with distinction for nearly fourteen years as a Court of Common Pleas Judge in Lancaster, PA. His service on the Court was preceded by 10 years of legal practice, where he focused primarily on civil litigation matters.

Judge Stengel exemplifies excellence in judicial decision making, yet his commitment to enhancing the legal profession does not merely begin and end at the courthouse door. He has had an incredibly positive impact on the legal community outside of the courtroom as well. As president of the Lancaster Bar Association, Judge Stengel formed a diversity task force to investigate ways to increase the number of minority attorneys practicing in Lancaster County. Additionally, Judge Stengel appointed a committee for the creation of the Lancaster Bar Association Foundation—a foundation whose

primary purpose is to raise funds for enhancing the delivery of services to underprivileged clients.

I applaud the President for nominating Judge Stengel and am confident he has the requisite judicial temperament, integrity, compassion, and legal expertise to serve with distinction on the Federal bench. I urge my colleagues to support his nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, today, I vote to support Lawrence Stengel to be a United States District Court Judge for the Eastern District of Pennsylvania. Judge Stengel has served for more than 13 years as a Judge on the Lancaster County Court of Common Pleas, where he has presided over hundreds of civil and criminal cases. In light of his significant judicial experience, it is not surprising that a substantial majority of the American Bar Association found him ''Well-Qualified'' for a lifetime position on the Federal court.

A look at the Federal judiciary in Pennsylvania demonstrates yet again that President Bush's nominees have been treated far better than President Clinton's and shows dramatically how Democrats have worked in a bipartisan way to fill vacancies, despite the fact that Republicans blocked more than 60 of President Clinton's judicial nominees. With today's confirmation, 18 of President Bush's nominees to the Federal courts in Pennsylvania will have been confirmed, more than for any other State.

With this confirmation, President Bush's nominees will make up 18 of the 43 active Federal circuit and district court judges for Pennsylvania—that is more than 40 percent of the Pennsylvania Federal bench. On the Pennsylvania district courts alone, President Bush's influence is even stronger, as his nominees will hold 15 of the 34 active seats—or more than 44 percent of the current active seats. With the additional Pennsylvania district court nominees pending on the floor and likely to be confirmed soon, nearly half of the district court seats in Pennsylvania will be held by President Bush's appointees. Republican appointees will outnumber Democratic appointees by nearly two to one.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate when President Clinton was in the White House. Although Republicans now decry Democratic filibusters of a mere handful of the most extreme nominees, Republicans denied votes to 10 judicial nominees, 9 district and 1 circuit court nominees of President Clinton in Pennsylvania alone. Despite the efforts and diligence of the senior Senator from Pennsylvania, Senator SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home State, there were 10 nominees by President Clinton to Pennsylvania vacancies who never got a vote. Despite how well-qualified these nominees were, many of their nominations sat pending before the Senate for more than a year without being considered. Such obstruction provided President Bush with a significant opportunity to reshape the Federal bench and the law.

News articles in Pennsylvania have highlighted the way that President Bush has been able to reshape the Federal bench in Pennsylvania. For example, The Philadelphia Inquirer noted that the significant number of vacancies on the Pennsylvania courts ''present Republicans with an opportunity to shape the judicial makeup of the court for years to come.'' Despite this, I do hope Judge Stengel will be fair to all who come before him.

Madam President, I yield back my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Shall the Senate advise and consent to the nomination of Lawrence F. Stengel, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Indiana (Mr. LUGAR) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 122 Ex.]

YEAS—97

Akaka	Dodd	Lott
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lincoln	

NOT VOTING—3

Edwards	Kerry	Lugar

The nomination was confirmed.

NOMINATION OF PAUL S. DIAMOND TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of Paul S. Diamond, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. There will be 2 minutes equally divided on the nomination.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, Paul Diamond is a distinguished Philadelphia attorney who holds a bachelor's degree from Columbia magna cum laude, demonstrating an excellent academic background, a law degree from the University of Pennsylvania, 2 years experience in the Philadelphia district attorney's office, a law clerk to a supreme court judge in Pennsylvania, a partner in a very distinguished law firm, Obermayer Rebmann Maxwell & Hippel, for more than a decade, and is currently an adjunct professor at Temple University.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I was tied up in a meeting for the prior vote on Judge Stengel. I have the highest respect for the two gentlemen and urge the confirmation of Judge Diamond.

Mr. HATCH. Mr. President, I am pleased today to speak in support of Mr. Paul S. Diamond, who has been nominated to the United States District Court for the Eastern District of Pennsylvania. He is a fine choice for the Federal bench.

Mr. Diamond received his bachelor of arts degree, magna cum laude, from Columbia University, and his juris doctor from the University of Pennsylvania School of Law. Following law school, he spent several years working in the Philadelphia District Attorney's Office as a Assistant District Attorney. He then served as a law clerk to the Honorable Justice Bruce W. Kauffman of the Pennsylvania Supreme Court, now a judge serving on the United States District Court for the Eastern District of Pennsylvania. At the conclusion of his clerkship, he returned to the Philadelphia District Attorney's Office.

In 1983, Mr. Diamond joined Dilworth, Paxson, Kalish & Kauffman LLP., as an associate and in 1986, he was made a partner. Paul S. Diamond is currently a partner in the venerable Philadelphia law firm of Obermayer, Rebmann, Maxwell & Hippel LLP., where he practices in the area of complex criminal and commercial litigation. He is also administrative partner of the firm's litigation department.

Since entering private practice, Mr. Diamond has specialized in the representation of clients in grand jury related litigation throughout the country. In fact, he authored a comprehensive text and several articles on the work of the grand jury. This area of expertise assisted him as he served on the American Bar Association's Grand Jury and Amicus Curiae Briefs Subcommittee where he drafted amicus curiae for the American Bar Association on the novel issue of the propriety of subpoenaing criminal defense attorneys.

In between his many responsibilities, Mr. Diamond has found the time to serve on the Pennsylvania Supreme Court's Lawyers' Fund for Client Security Board. This board helps clients recover some or all losses of money and/or property stolen from them by their attorneys.

Mr. Diamond has also received numerous awards and accolades. I am particularly impressed that Mr. Diamond is listed in Who's Who in the World, Who's Who in America, Who's Who in American Law and Who's Who Among Emerging Leaders. He also received the ABA's highest rating of unanimously well qualified.

I applaud President Bush for his nomination of Mr. Diamond and am confident that he will serve on the bench with compassion, integrity and fairness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, today the Senate considers the nomination of Paul Diamond to be a United States District Judge for the Eastern District of Pennsylvania. Mr. Diamond has a unanimous rating of ''well-qualified'' from the American Bar Association and significant experience serving as an assistant district attorney in Philadelphia for 6 years and serving as a litigator in private practice for over 20 years. He is supported by the senior Senator from Pennsylvania, for whom I have great respect.

With the three confirmation votes today, the Senate will now have confirmed 17 judicial nominees this year alone. Seventeen is the total number of judges who were confirmed under Republican leadership in all of 1996. However, in 1996, the first confirmation did not even occur until July.

With these three confirmations today, the Senate will have confirmed a total of 86 judges this Congress and 186 of this President's judicial nominees overall. With 86 judicial confirmations in just a little more than 17 months, the Senate has confirmed more Federal judges than were confirmed during the 2 full years of 1995 and 1996, when Republicans first controlled the Senate and President Clinton was in the White House. It also exceeds the 2-year total at the end of the Clinton administration, when Republicans held the Senate. With 186 total confirmations for President Bush, the Senate has confirmed more lifetime appointees for this President than were allowed to be confirmed in President Clinton's entire second term, the most recent 4-year presidential term. We have already surpassed the number of judicial appointments won by President Reagan in his entire first term in office.

A look at the Federal judiciary in Pennsylvania demonstrates yet again that President Bush's nominees have been treated far better than President Clinton's and shows dramatically how Democrats have worked in a bipartisan way to fill vacancies, despite the fact that Republicans blocked more than 60 of President Clinton's judicial nominees. With this confirmation, 19 of President Bush's nominees to the Federal courts in Pennsylvania will have been confirmed, more than for any other State.

With this confirmation, President Bush's nominees will make up 19 of the 43 active Federal circuit and district court judges for Pennsylvania. That is more than 40 percent of the Pennsylvania Federal bench. On the Pennsylvania district courts alone, President Bush's influence is even stronger, as his nominees will now hold 16 of the 35 active seats. In other words, nearly half of the district court seats in Pennsylvania will be held by President Bush's appointees. Republican appointees will outnumber Democratic appointees by nearly two to one.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate when President Clinton was in the White House.

Republicans denied votes to ten judicial nominees, nine district and one circuit court nominees of President Clinton in Pennsylvania alone. Despite the efforts and diligence of the senior Senator from Pennsylvania, Mr. SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home State there were 10 nominees by President Clinton to Pennsylvania vacancies who never got a vote. Despite records that showed these to be well-qualified nominees, many of their nominations sat pending before the Senate for more than a year without being considered. Such obstruction provided President Bush with a significant opportunity to shape the bench according to his partisan and ideological goals.

New articles in Pennsylvania have highlighted the way that President Bush has been able to reshape the Federal bench in Pennsylvania. For example, The Philadelphia Inquirer, observed that the significant number of vacancies on the Pennsylvania courts ''present Republicans with an opportunity to shape the judicial makeup of the court for years to come.''

I would note that the Republican leadership has decided to depart from the order of the executive calendar to confirm Mr. Diamond today rather than Juan Ramon Sanchez, a well-qualified Hispanic nominee to the U.S. District Court for the Eastern District in Pennsylvania. That is their choice. I do not want to see the Democrats blamed for any delay in confirmation of Mr. Sanchez. I support that nomination and believe it will be supported by all Democratic Senators.

I congratulate Mr. Diamond and his family today on his confirmation.

I yield back my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Paul S. Diamond, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Indiana (Mr. LUGAR) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 123 Ex.]

YEAS—97

Akaka	Dodd	Lott
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lincoln	

NOT VOTING—3

Edwards	Kerry	Lugar

The nomination was confirmed.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, let me take a minute to thank the two managers for their hard work on this Defense bill. As I stated before, this is the 11th day of consideration of this bill.

Although I think we have made real demonstrable progress today, I am concerned that we are not quite certain when we will be able to finish the bill and how many amendments may still be offered.

I have had discussions with the chairman and the Democratic leadership, and I am prepared to file a cloture motion this evening.

With that said, I still hope we can work out an agreement to allow us to finish the bill after a certain number of amendments, and with a time certain for passage. I will continue to discuss our options with the managers of the bill and hope that we can proceed in a balanced way to finish the bill.

CLOTURE MOTION

I send the cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 503, S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the armed services, and for other purposes.

Bill Frist, John Warner, Bob Bennett, John Cornyn, Mitch McConnell, Norm Coleman, Susan Collins, Lamar Alexander, Kay Bailey Hutchison, Rick Santorum, Lisa Murkowski, Gordon Smith, Thad Cochran, Wayne Allard, Chuck Hagel, Craig Thomas, Jeff Sessions.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Alabama is recognized to offer an amendment on which there will be 10 minutes of debate.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be recognized for 5 minutes and be notified at the conclusion of the 5 minutes, and the senior Senator from New York, Mr. SCHUMER, be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3372, AS MODIFIED

Mr. SESSIONS. Mr. President, for decades, civilian employees of the United States working overseas were shielded from prosecution for criminal acts that were committed abroad. These persons were outside the scope of military justice, and they were beyond the jurisdiction of Federal courts in the United States, and also our State courts. Often, foreign countries, when incapable of investigating and prosecuting the cases, or they didn't have adequate laws, or they were not even criminal offenses in the foreign country, did not prosecute. Maybe the foreign country had no interest in prosecuting a fraud against the United States.

In 1999, one of my constituents approached me with a terrible story of how two innocent children were molested while living overseas with their father, who was an Army service person. Because the perpetrator of the crime did the act overseas, he was beyond the scope of jurisdiction in the United States. Moreover, German law didn't cover this, so the person was completely unprosecutable at that time.

After hearing this story, I began to work on and introduce the Military Extraterritorial Jurisdiction Act, which was signed into law eventually in the year 2000.

It provided U.S. Federal courts with jurisdiction over civilian employees, contractors, and subcontractors affiliated with the Department of Defense who commit crimes, and would have subjected that person to at least 1 year of prison had the offense occurred in the United States.

We worked with the Department of Defense, the Department of Justice, and the Department of State and produced legislation which I think was very helpful.

Now, in the war on terrorism, the Department of Justice is finding this statute very helpful. In fact, the contractors involved in the Abu Ghraib prison would probably not be prosecutable had we not passed this law some time ago.

But as we have looked at it, we understand there are some gaps that still exist.

Senator SCHUMER raised this issue in the Judiciary Committee, and I began to work on dealing with those loopholes.

This act will deal with what our previous act dealt with—those who were directly related to the Department of Defense, either contractors or civilian employees. But the abuses in Abu Ghraib involved private contractors who may not have in every instance been directly associated with the Department of Defense, and as such, perhaps those people—or some of them at least—might not be prosecutable under this statute. So it highlighted our need to clarify and expand the coverage of the act.

I offer an amendment today, and I am pleased that Chairman WARNER and Ranking Member LEVIN have agreed to it. I believe it has been cleared on both sides and accepted by the managers.

This amendment would give the Justice Department authority to prosecute civilian contractors employed not only by the Department of Defense but by any Federal agency that is supporting the American military mission overseas.

The number of private contractors working in Iraq is about 10 times as great as it was in the Persian Gulf conflict.

Private contractors are necessary to rebuilding a healthy Iraq. Yet we cannot allow them to escape justice for crimes they may commit overseas.

I am not sure right now the Iraqi government has the ability or the interest in prosecuting a contractor who may have defrauded the United States. It clearly remains true that if they are to be prosecuted, it needs to be done here.

Our mission overseas is an honorable endeavor. It should not be tainted by illegal acts by any, particularly a few, who embarrass our country. Recent events have brought to light the need to ensure that those acting improperly are held accountable in a court of law.

This amendment clarifies existing precedent and leaves no doubt whether wrongdoers can be brought to justice. This includes physical acts against personnel by contractors. It also includes frauds that could be committed against the Department of Defense such as overcharging. Fraudulent activities of any kind could be prosecuted under this act.

I yield the remainder of my time to the Senator from New York, who, having suffered the blows of terrorism firsthand, has taken an interest in these matters for some time now. I am delighted to work with the Senator on this legislation.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this amendment is an important amendment to this bill. It is passing with bipartisan cosponsorship, both the House and the Senate unanimously. It shows we can get things done in a bipartisan way. In good part that is because of my colleague from Alabama. I salute him for his leadership on this issue. He originally discovered the loophole about contractors who work for DOE, that they could not be prosecuted should they commit crimes abroad. He successfully passed a law last year about this issue.

When we discovered all the problems in the prisons in Iraq, it was clear that not all the contractors were contracted to by DOD. Other agencies contracted them. It made sense to me that we prosecute them as well. I believe it

made sense to everybody. So I suggest to my colleague from Alabama that we work together to expand the amendment to include all contractors who work abroad who commit crimes or potential crimes.

As usual, we worked very well together on this. I thank the Senator for his leadership in passing the original bill, now law, and now amending this to broaden it.

The amendment Senator SESSIONS and I are offering today will close a dangerous loophole in our criminal law that would have allowed civilian contractors who do the crime to escape doing the time. As I mentioned, Senator SESSIONS closed part of this loophole a few years ago when he passed the Military Extraterritorial Jurisdiction Act and showed a great deal of foresight with that legislation.

The problem is that aside from Senator SESSIONS' bill there are negligently few provisions that give DOJ the power to go after civilian contractors. In short, if they do not contract with DOD, there is too strong a likelihood they will escape prosecution. Nothing in this amendment should be interpreted as undermining ongoing DOJ investigations or providing a basis for argument that DOJ does not have jurisdiction to prosecute contractor crimes in Iraq. Title 18, section 7, of the Criminal Code clearly confers such jurisdiction. This amendment covers contractors and territory for which title 18, section 7, does not confer jurisdiction.

I am proud to have worked with my colleague from Alabama to get this done. By passing this amendment today, this body gains stature because an important amendment is passed in a bipartisan way, and our country gains stature because the world sees when a crime is committed, unlike in so many other places in America, it is prosecuted.

With that, I yield back the remainder of my time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mr. SCHUMER, proposes an amendment numbered 3372, as modified.

The amendment is as follows:

(Purpose: To extend military extraterritorial jurisdiction to cover not only personnel and contractor personnel of the Department of Defense, but also personnel and contractor personnel of any Federal agency or provisional authority supporting the mission of the Department of Defense overseas, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CONTRACTOR ACCOUNTABILITY.

Section 3267(1)(A) of title 18, United States Code, is amended to read as follows:

''(A) employed as—

''(i) a civilian employee of—

''(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

''(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas;

''(ii) a contractor (including a subcontractor at any tier) of—

''(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

''(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas; or

''(iii) an employee of a contractor (or subcontractor at any tier) of—

''(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

''(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas;''.

SEC. ___. DEFINITION OF UNITED STATES.

Section 2340(3) of title 18, United States Code, is amended to read as follows:

''(3) 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.''.

Mr. LEAHY. Mr. President, 4 years ago, I worked with Senators SESSIONS and DEWINE to pass the Military Extraterritorial Jurisdiction Act, MEJA, which established Federal jurisdiction over crimes committed by civilians employed by, or accompanying, our military overseas. The Sessions-Schumer amendment further extends the jurisdictional authority we created in MEJA by closing a possible jurisdictional gap that could allow persons who commit crimes while accompanying our military overseas to escape justice. I support this amendment, and am pleased that the Senate has adopted it today. In addition, I thank the sponsors for accepting my addition to their amendment, which closes a similar jurisdictional loophole in Federal law.

Attorney General Ashcroft referred to this loophole last week, during his annual appearance before the Senate Judiciary Committee, while attempting to defend the Administration's position on torture. Interestingly, this loophole was created by legislative language that was proposed by the Department of Justice as a means of broadening, not shrinking, Federal criminal jurisdiction. This language, enacted as part of the USA PATRIOT Act, redefined the ''special maritime and territorial jurisdiction of the United States'' to include U.S. military bases and other U.S. Government properties in foreign States. The administration's summary of its proposal explained that it would ''extend'' Federal jurisdiction to ensure that crimes committed by or against U.S. nationals abroad on U.S. Government property did not go unpunished.

Unfortunately, the administration drafters of this proposal neglected to mention to Congress how it would impact on the Federal anti-torture statute. That statute prohibits torture committed ''outside the United States'' by persons acting under color of law, and defines the term ''United States'' to include the ''special maritime and territorial jurisdiction of the United States.'' By extending the special maritime and territorial jurisdiction of the United States, the PATRIOT Act effectively narrowed the reach of the anti-torture statute. Post-PATRIOT Act, the anti-torture statute may not allow for the prosecution of an individual who commits torture on a U.S. military base outside the United States.

My addition to the Sessions-Schumer amendment corrects this problem in a simple and straightforward way. It extends the anti-torture statute to apply, without exception, to acts committed outside the 50 States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

It may be that we should go further. Arguably, the anti-torture statute should be extended to apply anywhere in the world—both inside and outside the United States. I would welcome the views of the Department of Justice on this question. In the meantime, there are other Federal statutes that prohibit violence or excessive force by those acting under color of law within our borders.

Torture is one of the most serious crimes imaginable. I can think of no reason why the Federal Government should create safe havens for torturers anywhere in the world. To the contrary, we should use every means available to track them down and bring them to justice. The language that I have proposed, and that the Senate has accepted, will assist the Justice Department in doing just that.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment.

The amendment (No. 3372) was agreed to.

Mr. LEVIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. I rise to thank Chairman WARNER and Ranking Member LEVIN for their acceptance of a very important amendment last evening that was offered by me along with Senators SMITH, CORZINE, KENNEDY, and AKAKA to clarify the important role that the Department of Defense Vaccine Healthcare Centers Network plays in increasing training and competency in understanding vaccine associated adverse events, their diagnosis, treatment and medical exemption management.

My amendment, No. 3392, expands upon the language that originally created the Vaccine Healthcare Centers, or VHCs, in 2001, to better reflect their current function and mission, and recognize the growing importance the Network will play in the future with the recent passage of the BioShield Act.

As one example, the original language referenced only the anthrax vaccine program but the VHCs have played a fundamental role in developing and

testing the DoD Smallpox Vaccine Program with clinical and research follow-up. These functions should be reflected in the authorization of the VHCs and the Bingaman-Smith-Corzine-Kennedy-Akaka amendment does that.

Mr. President, Congress created the Vaccine Healthcare Centers, VHC, Network as part of the National Defense Authorization Act of 2001, but focused the VHCs on establishing ''a system for monitoring adverse events of members of the armed forces to the anthrax vaccine.''

The Vaccine Healthcare Center at Walter Reed Army Medical Center was created in 2001 to respond to that congressional requirement. Subsequently, with the creation of three additional regional centers at Naval Medical Center Portsmouth in Virginia, Womack Army Medical Center in North Carolina, and Wilford Hall Medical Center at Lackland Air Force Base in Texas, the VHC Network today provides educational and clinical support services that are available to 2.4 million Active Duty and Reserve servicemembers and over 6 million family members for all immunizations—not just the anthrax vaccine.

The importance of the VHCs to both servicemembers and the military cannot be understated. The VHCs, particularly the one at Walter Reed Army Medical Center, has established itself as an unbiased, objective source of clinical vaccine-related information to servicemembers, providers, the military and Congress, which is rather a remarkable accomplishment.

In fact, there are strong feelings with respect to the anthrax and smallpox vaccines, and it is no secret that I have grave concerns with the military's policies with respect to the mandatory nature of those vaccines at this time. However, regardless of how you feel about the policy, few would disagree that the VHCs have provided a strong scientific, and unbiased clinical perspective that all sides respect and appreciate.

As the Armed Forces Epidemiological Board, or AFEB, found in a report it published on April 14,2004, ''The VHC Network has become an integral component of the referral and consultation services available on vaccine adverse event issues for the DoD and can play an important role in the study and evaluation of cases or clusters of possible rare vaccine-induced adverse events.''

Furthermore, in testimony before the House Armed Services Committee on February 25, 2004, Dr. William Winkenwerder, Jr., Assistant Secretary for Defense Health Affairs stated, ''And we are delighted to say we now have on-site in the Vaccine Healthcare Center Network, a network of specialty clinics to provide the best possible care in rare situations where serious adverse events follow vaccination. In all our vaccination efforts, we focus on keeping individual service members healthy, so they can return home safely to their families and loved ones.

Although I do not always agree with Dr. Winkenwerder on force protection policy, I do on the importance of the Vaccine Healthcare Centers Network. My amendment with Senators SMITH, CORZINE, KENNEDY, and AKAKA updates and recognizes the importance of the VHCs to our Nation's servicemembers.

The original stated purpose of the language in 2001 was narrowly focused on the creation of a DoD Center of Excellence treatment faculty focused on providing treatment and follow-up as part of a system of monitoring adverse events of servicemembers for the anthrax vaccine. In fulfilling that original mission, DoD found that the VCH Network was needed to improve vaccine safety and efficacy for all vaccines, and not just limited to the anthrax vaccine.

To achieve this purpose, VHCs provide education, expert consultations and problem resolution, medical exemption management, disability assessments, and clinical research. These functions are not adequately recognized in the current DoD authorization language and my amendment reflects these expanded roles on behalf of our Nation's sevicemembers.

In fact, during fiscal year 2003 alone, the VHCs responded to over 160,000 contacts and provided case management for over 600 complicated vaccine-related cases for servicemembers. Moreover, just 4 days ago, the Chicago Tribune reported that a study by a researcher at Walter Reed Army Medical Center in conjunction with the Vaccine Healthcare Center there has conducted research that indicates ''military personnel inoculated against smallpox face a seven to eight times greater risk of heart inflammation'' than those who had never been vaccinated.

The study finds that, since the smallpox vaccination program was resumed in 2002, 615,000 servicemembers have been inoculated and that there have been 77 confirmed or suspected cases of heart inflammation, including at least one in my state.

As exemplified by the myopericarditis issue with smallpox vaccine, the VHCs also provide a place to identify uncommon adverse events and help provide early recognition and interdiction which drives policy changes in real time to protect the health and well-being of our Nation's military personnel.

Mr. President, vaccines are a prescription drug and, like any prescription drug, carry risk and side effects. We, as a Nation, cannot ask our servicemembers to continue with a vaccination policy and not recognize this critical fact. The VHC Network serves everybody by providing objective clinical education, services, and research into these matters that better inform all parties, including policymakers, of both the risk and benefits vaccines carry. Moreover, the Network serves to minimize those risks as best as they can.

Army Surgeon General, Lt. General James Peake, urged repeatedly in a memorandum dated February 10, 2004, to commanders and regional medical commands that clinicians utilize the VHC Network resources, while noting the ''U.S. Army lost a valuable Soldier, Rachel Lacy, in April 2003, a month after receiving five vaccinations during mobilization.''

Unfortuantely, this critical resource could have been lost or severely limited without the passage of our amendment. That would be unacceptable, particularly in light of the high praise from Dr. Winkenwerder, Lt. Gen. James Peake and the Armed Forces Epidemiological Board for the critical work VHCs perform. To that end, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the memorandum from Dr. Peake.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. BINGAMAN. And finally, as the use of passive immune globulin and other immune modulators increases, complex interactions and expert evaluation of adverse events will be needed more than ever in support of both our Nation's servicemembers and to guide both military readiness and homeland defense policy. The VHCs are a critical component in that endeavor.

So again, I thank the mangers of the bill, Chairman WARNER and Ranking Member LEVIN, for agreeing to the Bingaman-Smith-Corzine-Kennedy-Akaka amendment to appropriately reflect and confirm congressional support for the activities undertaken by the VHC Network, as their role is critical to the health and well-being of our Nation's servicemembers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(EXHIBIT 1.)

DEPARTMENT OF THE ARMY, HEADQUARTERS, UNITED STATES ARMY MEDICAL COMMAND,
Fort Sam Houston, TX, February 10, 2004.

Memorandum for Commanders, Regional Medical Commands

Subject: Learning from Adverse Events After Vaccination—Action Memorandum.

1. Immunization is one of the most valuable tools available to keep Soldiers healthy. The overwhelming majority of immunizations are followed by mild symptoms, such as soreness at the injection site; severe adverse reactions are extremely rare. Unfortunately, the U.S. Army lost a valuable Soldier in April 2003, a month after receiving five vaccinations during mobilization. Although the evidence was inconclusive, medical experts determined that vaccination may have contributed to her death (Tab A). Additional information about the case is available at www.vaccines.mil/panelreport.asp.

2. Please relay this message to clinicians in your command, noting these key points: Remind vaccinees to seek medical care if they experience medical problems, or they can call the DoD Vaccine Clinical Call Center at 866–210–6469; Remind clinicians to take a vaccination history during patient assessments. Be particularly alert in post-vaccination cases of fever, chest symptoms (e.g., dyspnea, chest pain), or clinical findings such as pleural or pericardial inflammation;

In conditions not responding to antibiotics, consider the possibility of autoimmune disease and appropriate treatments for such conditions; Seek specialty consultation as clinically appropriate. Consider the unique consultation resources within the Vaccine Healthcare Center (VHC) Network (www.vhcinfo.org, 202–782–0411 (DSN: 662); askVHC@na.amedd.army.mil); Continue to report adverse events after vaccination to the Vaccine Adverse Events Reporting System (VAERS, www.vaers.org); Continue to follow guidelines for managing adverse events after vaccination (www.vaccines.mil/pdf/cpguidelines.pdf). Note there are new guidelines for the evaluation and treatment of myopericarditis after smallpox vaccination; Grant medical exemptions when clinically appropriate. When needed, use consultation services for a second opinion (e.g., Vaccine Healthcare Center Network);

3. For more vaccine resources, take advantage of the experts at the Vaccine Healthcare Center Network (www.vhcinfo.org) and the Military Vaccine Agency (www.vaccines.mil).

4. My points of contact for this action are COL John Grabenstein at 703–681–5101 and COL Renata Engler at 202–782–0411.

JAMES B. PEAKE,
Lieutenant General, Commanding.

Mr. HARKIN. Mr. President, I thank the managers of the Department of Defense authorization bill, Senators WARNER and LEVIN, for their assistance earlier this week in adopting an important amendment. I offered the amendment, now a provision of this bill, to express the sense of the Senate concerning programming on American Forces Radio and Television Service, AFRTS.

As my colleagues know, for American service members and their families stationed in more than 177 countries and U.S. territories around the world, as well as for DOD civilians and their families, AFRTS is intended to broadcast a ''touch of home'' by providing programming that reflects a cross section of what is widely available to stateside audiences. According to the AFRTS website, its programming is meant to ''represent what is seen and heard in the United States.''

I support AFRTS in its mission. Making U.S. entertainment and news programming available to American service members wherever they are located is important for their morale and to keep them informed. I believe the fiscal year 2004 funding level of $47 million for AFRTS is justified.

Several weeks ago, however, it came to my attention that the programming on one AFRTS service—its ''uninterrupted voice,'' or talk radio, service—has what I consider to be a political bias in its social and political commentary.

For the information of my colleagues, the radio broadcast component of AFRTS, which is American Forces Radio, consists of 13 channels, or ''services.'' Seven of these radio services focus on music, with news briefs at the top of every hour. Two are continuous news information services. One service broadcasts National Public Radio 24 hours a day, 7 days a week. Two services are continuous sports talk. The final service is what the network calls uninterrupted voice service, or talk radio service.

Based on conversations between my staff and personnel at AFRTS, I believe the bias that exists in the social and political commentary portions of this talk radio service is not intentional. I commend the openness of American Forces Radio officials in the dialogue we have now begun on this topic. But in my view the bias in this programming is real.

Public criticism of American Forces Radio content has focused on the fact that Rush Limbaugh's commentary is carried daily on the talk radio service. I generally do not agree with Rush Limbaugh's commentaries. But I do not object to the fact that they are run on a daily basis on this service. Some people do object. However, what I do take issue with is the fact that there is no commentary on the service that would even begin to balance the extreme right-wing views that Rush Limbaugh routinely expresses on his program.

Critics have specifically cited Rush Limbaugh's use of his show to condone and trivialize the abuse of Iraqi prisoners by U.S. guards at the Abu Ghraib prison in Iraq. As many of my colleagues know, and as has been pointed out previously here on the Senate floor, Mr. Limbaugh reportedly likened the abuse of Iraqi prisoners by U.S. guards at Abu Ghraib to a fraternity initiation. He called some of the abusive tactics a ''brilliant maneuver.'' I think the critics are right. Limbaugh's remarks—and there are many more offensive remarks by Mr. Limbaugh on this topic than I have mentioned here—are repugnant. They do damage to the American image when they are heard around the world. I would guess that Limbaugh's comments on Abu Ghraib also probably offend a large majority of American service members.

Still, I am not calling for American Forces Radio to pull Rush Limbaugh's commentaries from their talk radio service. I am asking, and I am pleased that the Senate is now on record asking, that AFRTS meet its own mandate, as generally articulated in Department of Defense Regulation 5120.20R. That regulation calls for AFRTS political programming that is ''characterized by its fairness and balance,'' as well as news programming guided by a ''principle of fairness'' that requires ''reasonable opportunities for the presentation of conflicting views on important controversial public issues.''

Liberals, moderates and independents contribute to funding for American Forces Radio through payment of their taxes, just like conservatives do. There is no reason that American service members should receive lengthy right-wing commentaries with regularity on American Forces Radio's talk service, without some balance from competing views as part of that same service. For the good of its listeners, and to meet its own mandate, American Forces Radio needs to make a greater effort to give a balanced, fair representation of varying political viewpoints on its talk radio service.

In conversations with my staff, individuals at AFRTS have said that their programming of Rush Limbaugh on the talk service is driven strictly by national ratings here in the States. That was not the position taken by a DOD official on CNN earlier this month, however. According to news coverage posted on CNN.com, Deputy Assistant Secretary of Defense Allison Barber has said that the appropriateness of content is a factor in deciding what commentaries are broadcast on American Forces Radio.

I agree with the Deputy Assistant Secretary's statement. Content is a factor in deciding which commentaries to run on American Forces Radio. At the same time, I also agree with stated AFRTS policy. There should be fairness and balance in political programming on American Forces Radio.

My amendment in no way prescribes specific content or programming at AFRTS. That is not the role of the Senate. What my amendment does do, appropriately, is state that it is the sense of the Senate that the Secretary of Defense should ensure that AFRTS policies of fairness and balance are being fully implemented. The amendment calls on the Secretary to develop appropriate methods of oversight in this regard. I look forward to working with the Department and others to see that AFRTS meets these proper goals.

Mr. JEFFORDS. Mr. President, I rise to express my strong support for the amendment adopted yesterday to the Department of Defense authorization bill that would strengthen Federal hate crime laws.

This amendment would strengthen Federal hate crimes law in two important ways. First, it would remove the requirement that the victim be engaged in a federally protected activity when the crime occurs. This change will make it easier for hate crimes to be prosecuted and local officials to be assisted when the hate crime is based on race, religion, or national origin. Second, the current statute is expanded to cover hate crimes based on gender, sexual orientation, and disability.

Since the Federal Bureau of Investigation began to track hate crimes in 1991, the incidents of hate crimes based on sexual orientation have more than tripled. If the changes to the Federal hate crimes statute incorporated in this amendment are enacted, it will allow the Federal government to prosecute these crimes and assist local law enforcement officials in dealing with these violent hate crimes.

Any crime hurts our society, but crimes motivated by hate are especially harmful. Many States, including my own State of Vermont, have already passed strong hate crimes laws, and I applaud them in this endeavor.

An important principle of the amendment is that it allows for Federal prosecution of hate crimes without impeding the rights of States to prosecute these same crimes.

The adoption of this amendment by the Senate is an important step forward in ensuring that the perpetrators of these harmful crimes are brought to justice. The American public knows that Congress should pass this legislation, and I call upon the conferees to retain this important provision during the conference on this legislation.

Mr. LEVIN. I will ask unanimous consent the resolution relative to the Detroit Pistons victory be introduced in 1 minute, but first I ask unanimous consent that I temporarily turn the floor over to Senator BIDEN. Then I will introduce this unanimous consent resolution, Senator STABENOW will be recognized for 5 minutes, I will be recognized for 5 minutes, and then Senator MILLER will be recognized for 8 minutes after that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

A TRIBUTE TO BETTY STRONG: THE POLITICS OF DECENCY

Mr. BIDEN. Mr. President, I rise today to pay tribute to an incredible woman. There are a number of benefits that flow, as my friend, the Presiding Officer, knows, even from failed Presidential efforts seeking to get the nomination as he and I have both done. We meet some extraordinary people who put their lives on hold for you because they believe in what you are trying to do. There was such a woman who just passed away in Iowa, in Sioux City. Her name is Betty Strong.

Theodore Roosevelt said:

> The most practical politics is the politics of decency.

There was none more practical or more decent than Betty Strong, the matriarch of the Democratic politics of Iowa. She was a wonderful woman whose friendship and memory I will always cherish and whose friendship with her husband I still cherish.

Anyone who knows Iowa politics—and I know the Presiding Officer knows Iowa politics at least from the Republican side of the effort—knows the name Betty Strong. Senator HARKIN and I have been reminiscing all day with wonderful stories we have about her. Time will not permit me to speak to all of these, but she was a master political craftsman. She understood grassroots organizational politics better than anyone. She was a community leader in the best sense of the word. She brought people together around the process and around the issues.

She was a woman of uncanny insight and extraordinary good sense, basic honest judgment, and something that seems altogether too uncommon these days: a depth of good will, unmatched by anyone I have met in politics.

We can find thousands of examples of strong, tough-minded, powerful women in our history who have left their mark, big and small, on our lives, from Helen Keller to Eleanor Roosevelt. All of them inspired a Nation. All of them gave us hope. But few have had as much of a personal impact as Betty Strong of Iowa, who just followed her heart, got involved, did what she wanted to do, and did what she believed was right for the community.

She was tough, strong, and smart. She started in politics in the early 1950s at a time when back rooms were still smoke filled and the sound of a woman's voice was a cause for heads to turn. I can only imagine that Betty did not hesitate to cut through that smoke and speak her mind, even back in the 1950s, and when she did, I imagine she caused those old party bosses to turn their heads on more than one occasion. When she spoke, everyone listened. I know I did.

Margaret Thatcher said:

> Success is having a flair for the thing that you are doing, and knowing that it is not enough, you have to work hard and have a sense of purpose.

Betty was a success because she worked as hard as anyone I have ever had the pleasure to work with and she had a powerful sense of purpose. She absolutely loved politics as much as she absolutely loved Iowa. She loved the process, and everyone respected her for that.

She was a rare woman who had the depth of an abiding commitment to the rough and tumble of organizational door-to-door politics. Boy, did she know how to work a room. You had to see her work. She could read people. She had, as my mother would say, the sixth sense about how to persuade and bring people to her side, how to convince them she was right. She was, indeed, a very persuasive woman. There was no doubt that when you were with her, you wanted to be on her side.

But I don't think winning was Betty's real goal. It was not what drove her. I think she cared deeply about the fact that people need to be engaged and they contribute to making things better, they find a cause and take a side, they fight for what is in their heart and their gut, and they move the system in the right direction.

For Betty Strong, it was community that mattered most. It was the democratic process she cared about, and she believed that it worked best when you have maximum participation.

That is not to say that she did not have a deeply held set of values and beliefs that drove her politics; she did.

First and foremost, she was a Democrat—a Democrat Democrator, as the folks in Alabama used to say: a Yellow Dog Democrat. She had the hash marks and battle scars of more than 40 years of engagement to prove it.

If I had to categorize her politics, I would say she was an old-fashioned but practical FDR Democrat, an accomplished activist who fought on behalf of organized labor and through the Central Labor Council for the basic dignity of American workers.

I remember how she welcomed my wife Jill and me to her home as she welcomed a host of Democratic candidates over the years. And she did not hesitate to make her opinions known. She did not hesitate to share her love and affection with you.

But partisanship is not a word I think of when I remember Betty Strong. The word I think of is ''democracy.'' To watch her in action was to understand what Teddy Roosevelt meant when he said, ''the politics of decency.'' She was a decent person, as decent as any I have ever met in my public life. She was as engaged as she was engaging, as warm as she was tough, and as wise as she was shrewd.

To see her build a coalition, to watch her rally support, was to realize that all she wanted to do was bring the best out in people.

I first met her in 1987. I stayed in contact with her over the entire time until her death. She was a friend of mine, a friend of Senator HARKIN's, and a friend of many of us here.

I only wish we had more like her in both parties. You have them in your party, as I have them in mine. And, God, they are beloved. They are beloved people. But it seems like the generation is passing of the people who made the commitment she made.

She knew all politics was local, but she also knew local politics made up what this Nation is. She was a nation builder. She was a great woman. I miss her. Our sympathies to Darrell and her family.

I thank the Chair and I thank my colleagues for their graciousness. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

HONORING THE DETROIT PISTONS ON WINNING THE NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 380, submitted earlier today by myself and Senator STABENOW.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 380) honoring the Detroit Pistons on winning the National Basketball Association Championship on June 15, 2004.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator STABENOW be recognized for her approximately 5-minute statement, and that I then be recognized for my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank my friend and colleague from Michigan.

Mr. President, I rise today with my friend from Michigan to offer this resolution congratulating the Detroit Pistons for winning the National Basketball Association Championship.

What a game, and what a win.

In a remarkable display of toughness, talent, tenacity, and old-fashioned hard work, the Pistons made history yesterday by winning their third consecutive home game at the Palace of Auburn Hills to clinch their third NBA title.

It was the first time in NBA Finals history that the home team won the third, the fourth, and the fifth game at home.

The Pistons embody all that I love about the people of Michigan. They are a determined, hard-working team that has shown relentless determination to achieve their goal. The Pistons are a complete team. They sacrifice personal gains for the good of their teammates. And we saw that over and over again last night. They dove for loose balls, and they played great defense.

Like the people of Michigan, the Pistons do not seek the limelight but, rather, let their performance on and off the court speak for itself.

Off the court, the Pistons launched their Read to Achieve Program in October 2001. I was very pleased to participate in one of their reading events. To date, they have opened four reading and learning centers, the most recent last Monday at the Cornerstone Elementary Linwood Campus Library. And they have donated their time to read with over 4,500 students throughout Michigan.

On the court, the Pistons faced many hurdles to win this title. First, they overcame a grueling regular season schedule to win 54 games. Next, they outlasted three of the toughest teams in the Eastern Conference playoffs: the Milwaukee Bucks, the New Jersey Nets, and the Indiana Pacers to make it to the NBA Finals.

In the end, the Pistons prevailed against the storied Los Angeles Lakers, a franchise with 14 titles to its credit, four future Hall of Famers, and a future Hall of Fame coach, Phil Jackson, who has coached nine NBA championship teams.

Our Pistons beat them all and showed they are the best.

I would like to take a moment to recognize members of the Pistons organization who made this remarkable season possible.

Congratulations, first, to Bill Davidson, the Pistons owner, a man who has had a wonderful year. Mr. Davidson, a generous philanthropist for the last 25 years, adds the Pistons' NBA title to the Detroit Shock's 2003 WNBA championship.

I also congratulate the Pistons President of Basketball Operations, Joe Dumars. As an NBA player, Joe was one of the driving forces on the 1989 and 1990 Pistons championship teams, and proved to be equally valuable in the Pistons front office by assembling this terrific team.

Next, of course, big congratulations are in order to Larry Brown, the first coach to win an NBA championship and an NCAA title. The much traveled Hall of Fame coach made his nest in Detroit this year and won this championship by asking his players to play basketball the ''right way,'' emphasizing defense, rebounding, and team play. This kind of old-fashioned philosophy is the kind of workman-like philosophy we value in Michigan.

Finally, and most importantly, cheers to the guys doing the hard work on the hardwood. The Pistons starting backcourt of Richard Hamilton and Finals MVP Chauncey Billups provided the leadership, scoring, and defense when the team needed it most. Each game, the tandem of Ben Wallace and Rasheed Wallace erected a virtual wall around the Pistons basket and blocked shots and collected rebounds that were critical to the Pistons' success—and great fun to watch.

Joining the Wallaces in the front court was Tayshaun Prince, the long-armed forward who made the highlight-reel block of a layup during game 2 of the Eastern Conference Finals that turned that series around and propelled the Pistons to the NBA Finals.

Finally, the contributions of the Pistons reserves, known collectively as the ''Alternatorz,'' proved invaluable, as they always provided a spark whenever they were called upon.

Mr. President, I attended game 3 of the NBA Finals last Thursday evening with my son. It was very exciting, and I can tell you that Pistons basketball is a beautiful thing to watch. And though this Detroit Pistons team is not known for its physical play, as the ''Bad Boys'' teams of 1989 and 1990 were, it is known for the intimidating presence of the Pistons center and spiritual leader, Ben Wallace.

Aside from the Pistons' victory, there was nothing more entertaining and fun to watch than seeing the countless Detroit fans at the Palace wearing wigs resembling Ben Wallace's hair. Looking forward to next year, I want to pass on a message to the NBA I saw on one fan's sign: ''Fear the Fro.''

Again, congratulations to all the Pistons players, coaches, and staff who made this championship possible. This was truly a magnificent accomplishment for fans in Detroit and across the State of Michigan.

Mr. President, I ask unanimous consent that the names of the Pistons players and coaches be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Ms. STABENOW. Mr. President, I might also say, I look forward to collecting, with my colleague, on the bet that Senator LEVIN and I won from our colleagues and friends from California.

Mr. President, I yield the floor.

EXHIBIT 1

DETROIT PISTONS—2004 NBA WORLD CHAMPIONS

Players: Chauncey Billups, Elden Campbell, Tremaine Fowlkes, Darvin Ham, Richard Hamilton, Lindsey Hunter, Mike James, Darko Milicic, Mehmet Okur, Tayshaun Prince, Ben Wallace, Rasheed Wallace, Corliss Williamson,

Head Coach: Larry Brown

Assistant Coach: Herb Brown, Dave Hanners, Igor Kokoskov, John Kuester, Mike Woodson

Athletic Trainer: Mike Abdenour

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, last night before 22,000 fans, a gritty bunch of Detroit Pistons achieved one of the biggest championship basketball upsets in history. In a league that has long emphasized the role of its star players, the Detroit Pistons bring to mind another famous team, the 1980 U.S. Olympic gold medal hockey team, and remind us that teamwork, perseverance, desire, and defense win championships.

The Detroit Pistons president Joe Dumars and his staff, with the full and total support of the owner Bill Davidson, put together a team not built around one or two superstars but on the solid play of all of its members. In their effort to build a team that could advance through the playoffs and win a championship, the Pistons made a midseason trade for Rasheed Wallace, a talented and multidimensional power forward.

In a league where bold season-changing trades are rare, this move gave the Pistons a potent front court scoring option and another rebounding and shot blocking presence to compliment two-time defensive player of the year Ben Wallace. Throughout the series the Pistons were the true definition of a team, with each and every Piston contributing in some way during their run for the championship.

NBA finals MVP Chauncey Billups, who has played for five teams in his short career, looked at home with the Pistons and played a stellar series on both ends of the court. For this year, at least, they could have renamed MVP the MVT for the ''most valuable team,'' because this was truly a team effort. It must have been extremely difficult for the people who selected the MVP to single out just one Piston because they truly were a unit.

In Larry Brown, the Pistons had obtained a coach who over the course of 31 years of coaching had developed a reputation as a keen student of the game, able to motivate players and respect his players and make gametime adjustments with great skill. Focusing his players on his favorite mantra—play the right way—Coach Brown was able to prove that by sharing the ball and sharing the glory, even the star-studded Lakers could be defeated. Over the course of the season Coach Brown became the first coach in basketball history to win both an NBA and NCAA championship title.

The country may have viewed the Pistons as the underdog, but thanks to Coach Brown, his players remained hungry for a championship and always believed in their hearts that they were up to the challenge.

So our heartiest congratulations to the Detroit Pistons, as the players, coaches, staff, and fans celebrate their third NBA championship. The effect of these finals will be felt for a long time.

As a Detroiter and proud citizen of Michigan, I know the huge impetus, the wonderful momentum, the great feeling that pervades and permeates my home State tonight. Since Detroit is now home to both the WNBA and NBA champions, perhaps Detroit, long known as Hockeytown USA, will now be recognized as Hoopstown USA as well.

I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and that any statements relative to the resolution be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

The resolution (S. Res. 380) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 380

Whereas the Detroit Pistons finished second in the Central Division of the Eastern Conference and won the National Basketball Association (NBA) World Championship for the first time since winning back to back Championships in 1989 and 1990;

Whereas the Detroit Pistons is the first Eastern Conference team to win the Championship since 1998;

Whereas the Detroit Pistons by defeating the heavily-favored Los Angeles Lakers 4 games to 1 showed grit, determination, discipline, and unity, thereby securing their third National Basketball Association World Championship;

Whereas the Detroit Pistons completed an incredible season with strong performances from many key players, including Finals Most Valuable Player Chauncey Billups, two-time Defensive Player of the Year Ben Wallace, a new head coach in Larry Brown and savvy front office executives such as Joe Dumars;

Whereas Detroit Pistons owner Bill Davidson became the first owner to win an NBA and WNBA championship, as well as the Stanley Cup championship, in the span of 12 months;

Whereas President of Basketball Operations Joe Dumars built a cohesive championship team through smart draft choices, key free agent signings and bold trades, including the mid-season acquisition of Rasheed Wallace, a vital part of the Pistons' impenetrable frontline;

Whereas Detroit Pistons Head Coach Larry Brown, the oldest coach to win an NBA Championship, became the first coach to win both an NBA and NCAA championship;

Whereas each member of the Detroit Pistons roster, including Chauncey Billups, Elden Campbell, Tremaine Fowlkes, Darvin Ham, Richard Hamilton, Lindsey Hunter, Mike James, Darko Milicic, Mehmet Okur, Tayshaun Prince, Ben Wallace, Rasheed Wallace, Corliss Williamson, made meaningful contributions to the success of the basketball team and proved once again that the whole can be greater than the sum of its parts;

Whereas Detroit Pistons fans made a meaningful contribution to the success of their basketball team through their energy and passion which was on display throughout the regular season and playoffs at the Palace at Auburn Hills;

Whereas the Detroit Pistons became the first team in NBA Finals history to win games 3, 4, and 5 on their home court since the NBA returned to its current format in 1985;

Whereas in honor of the Detroit Pistons' championship, the Palace of Auburn Hills is officially changing its address to Four Championship Drive; and

Whereas the Detroit Pistons have demonstrated great strength, skill, and perseverance during the 2003–2004 season and have made the entire State of Michigan proud: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Detroit Pistons on winning the 2004 National Basketball Association Championship and recognizes all the players, coaches, support staff, and fans who were instrumental in this achievement; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Detroit Pistons for appropriate display.

Mr. LEVIN. I thank our friend from Georgia for his patience as we let out our feelings about what happened yesterday in Detroit.

Mr. MILLER. Congratulations to the Pistons.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized for 8 minutes.

REMEMBRANCE OF D-DAY

Mr. MILLER. Mr. President, D-Day happened when I was 12 years old. But I can remember it better than I can remember some things that happened last week. At that time my mother worked at the old Bell Bomber Plant in Marietta, GA, helping build B–29s or, as they were called back then, ''flying fortresses.''

Sunday before last, I got to realize a lifelong dream, a visit to Normandy. I got to walk around Omaha and Utah beaches. I peered down those steep slopes at Pointe du Hoc. I sat spellbound and misty eyed as I listened to the magnificent speech of our President George W. Bush at that Sunday morning ceremony, amid those nearly 10,000 silent crosses and Stars of David, a sacred spot in the history of freedom, if ever there was one.

I got to talk and meet with many of those members who are left of the ''greatest generation.'' One sat in front of me at the ceremony with his two, big, good-looking, husky, raw-boned sons, who looked as if they were a couple of acorns that had not fallen too far from that sturdy oak. He came in with them a little stooped, moving slowly, an infantryman's blue badge and a Bronze Star proudly attached to his shirt. He told me he had come in on the first wave, ''loaded down with grenades,'' and later ''I threw them everywhere,'' he said. Mostly he was quiet, though.

When our President began to speak, he almost reverently slightly bowed his head, obviously lost in the memory of that longest day long ago.

I sat directly behind him and I couldn't see, but I think his eyes were closed. But he was hearing—no, he was feeling each and every touching word. When our President spoke of ''the whistles of shells from behind them, the white jets of enemy fire around them,'' on several occasions, he would nod softly as if saying to himself: That is exactly how it was.

When the President talked of the sound of bullets hitting the steel ramps that were about to fall, he softly but visibly shivered in agreement and then a more vigorous nod, as his old body stiffened and he was once again that young warrior, that soldier of freedom, charging in to face the enemy, ''throwing those grenades everywhere,'' as he had put it earlier.

His two big sons—strong men, you could tell—were in tears, unashamedly taking off their sunglasses and wiping their eyes with the back of their hands. They did not have any Kleenex. They were not exactly the tissue-carrying kind. I couldn't help but wonder, when was the last time these men had shown such emotion. How long had they talked and planned with their dad on this important moment in his life and the life of this country?

He told me he lived in Florida now, and I am terribly ashamed I did not get his name. But I was hesitant, I was reluctant. I felt like I was intruding on a family gathering.

I did talk with many others. I want to mention 2 whose names I did get, 2 who had been among the 100 awarded the prestigious French Legion of Honor: Marvin J. Perrett and Alan F. Reeves.

Coxswain Perrett is from New Orleans and helped Stephen Ambrose put together that great D-Day museum located there. By the way, visit it, if you have a chance. It is magnificent. This coastguardsman had brought 36 men on to Omaha Beach in a landing craft on the first wave, after piloting them around for hours, around and around on that rough, choppy sea, but with those thick fumes and their own vomit gagging them. Something I had never known before, he also took a landing craft into Iwo Jima in the first wave and later Okinawa. That is what coastguardsmen did.

I met Alan F. Reeves who had been part of General Eisenhower's Supreme Allied Command at one time and is still active with those members who are living. He gave me some insight into that great man who had commanded this greatest of all assaults in world history. He was fascinating and inspiring to talk with. He shared something else with me, a beautiful poem written by his son who once visited the cemetery with his father.

I asked Mr. Reeves if I could have a copy of it, and I want to share it with the Senate. By Christopher Bromley Reeves of Delaware:

Le cimetiere de St. Laurent, and all it holds
Awaits the sixtieth recollection of why it is.
Its rows on rows boxed by Austrian black
pines,

Their fallen cones scattered at the edge
Calm, suspended from the world and time
It observes the preparations undisturbed.
Somewhere near, they'll build a stage
For politicians, veterans, other dignitaries.
They'll have their say, then wing their way,
Adding little, detracting nothing.
Fewer seats, more empty chairs,
This commemoration.
I'd rather wait within the esplanade of trees,
Defer the grid of graves behind me,
Lift a pine cone from the path,
Roll it in my hand,
Smell its earth and resin tar,
Gaze across the cliff
Beyond the beach,
Drift the moment,
Delay the turn.
A weepy rain is in the air,
But I can hear the hush press on my back,
The quiet murmur of ten thousand
Crosses sprung from planted souls,
They no longer scream.
The gentle yet relentless passage of these sixty years
Does not diminish any sacrifice; it has removed the sting.
Wounds have eased, their pains appeased.
Time deftly folds the space between those lost and left,
Eventually to wrap them all in common thought,
Collected minds of how this place was wrought
Wrap us
In the mists creeping up the slopes,
Seeping through the burial ground.
Make free wind stall, and pine cone fall.
Let no shadow touch the mall.
The Channel's rough today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Georgia for his excellent works. Once again, he has shown he is one of the most eloquent Members of this body, if not the most eloquent. We are going to miss him. He still has a lot to do between now and the end of this session, but he has certainly done yeoman's service here. His tribute to those soldiers who were there on that special day many years ago is valuable to us all.

Mr. President, I had the opportunity to accompany former Senator Phil Gramm to Pointe du Hoc in Normandy a few years ago. Tears were in his eyes when he showed us exactly where the Texans went up the hill at Pointe du Hoc. It was an incredible achievement.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICE OF COMPLIANCE STATEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to section 304(a) of the Congressional Accountability Act of 1995 (2 U.S.C. 1383(a)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, June 16, 2004.

Hon. TED STEVENS,
President Pro Tempore, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: This transmittal letter supersedes the transmittal letter of June 15, 2004.

Section 303(a) of the Congressional Accountability Act of 1995 (''Act''), 2 U.S.C. 1383(a), the Executive Director of the Office of Compliance shall, ''subject to the approval of the Board [of Directors of the Office of Compliance], adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.'' The Executive Director and Board of Directors of the Office of Compliance are transmitting herewith the enclosed Amendments to the Procedural Rules of the Office of Compliance for publication in both the House and Senate versions of the Congressional Record on the first day on which both Houses of Congress are in session following this transmittal. See 303(b) of the Act, 2 U.S.C. 1383(b).

These amendments to the Procedural Rules of the Office of Compliance shall be deemed adopted by the Executive Director with the approval of the Board of Directors on the date of publication of this Notice of Adoption of Amendments to Procedural Rules on both the House and Senate versions of the Congressional Record.

Any inquiries regarding this Notice should be addressed to the Executive Director, Office of Compliance, 110 2nd Street, SE., Room LA–200, Washington, DC 20540; 202–724–9250, TDD 202–426–1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of Directors.
WILLIAM W. THOMPSON II,
Executive Director.

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

INTRODUCTORY STATEMENT

On September 4, 2003, a Notice of Proposed Amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record at S11110, and H7944. As specified by the Congressional Accountability Act of 1995 (''Act'') at Section 303(b) (2 U.S.C. 1384(b)), a 30 day period for comments from interested parties ensued. In response, the Office received a number of comments regarding the proposed amendments.

At the request of a commenter, for good reason shown, the Board of Directors extended the 30 day comment period until October 20, 2003. The extension of the comment period was published in the Congressional Record on October 2, 2003 at H9209 and S12361.

On October 15, 2003, an announcement that the Board of Directors intended to hold a hearing on December 2, 2003 regarding the proposed procedural rule amendments was published in the Congressional Record at H9475 and S12599. On November 21, 2003, a Notice of the cancellation of the December 2, 2003 hearing was published in the Congressional Record at S15394 and H12304.

On February 26, 2004, the Board of Directors of the Office of Compliance caused a Second Notice of Proposed Amendments to the Procedural Rules to be published in the Congressional Record at H693 and S1671. The Second Notice included changes to the initial proposed amendments, together with a brief discussion of each proposed amendment, and afforded interested parties another opportunity to comment on these proposed amendments. (The Second Notice was also published in the House version of the Congressional Record on February 24, 2004. However, because the Senate did not publish the Second Notice on that date, the Second Notice was published on February 26, 2004.)

The comment period for the Second Notice of Proposed Amendments to the Procedural Rules ended on March 25, 2004. The Board received a number of additional comments regarding the proposed amendments.

The Executive Director and the Board of Directors of the Office of Compliance have reviewed all comments received regarding the Notice and the Second Notice, have made certain additional changes to the proposed amendments *inter alia* in response thereto, and herewith issue the final Amendments to the Procedural Rules as authorized by section 303(b) of the Act, which sates in part: ''Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.'' *See* 2 U.S.C. 1383(b).

The complete existing Procedural Rules of the Office of Compliance may be found on the Office's web site: www.compliance.gov.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure generally establish the process by which alleged violations of the laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the procedures for processing Occupational Safety and Health investigations and enforcement, as well as the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint under all of the statutes applied by the Act, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for the filing of an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance.

These amendments to the Rules of Procedures are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

HOW TO READ THE AMENDMENTS

The text of the amendments shows changes to the preexisting text of the Procedural Rules as follows: *[deletions within italicized brackets]*, *and added text in italicized bold.* Only subsections of the rules which include amendments are reproduced in this NOTICE. The insertion of a series of small dots (. . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of stars (* * * * *) indicates that the

unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not amended, please access the Office of Compliance web site at www.compliance.gov

Included with these amendments are "Discussions" which are not part of the Procedural Rules, but which have been added to provide additional information regarding the adoption of these amendments to the Procedural Rules.

DISABILITY ACCESS

This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov, which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice is also available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9225; TDD: 202–426–1912; FAX: 202–426–1913.

PART I—OFFICE OF COMPLIANCE

RULES OF PROCEDURE

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and As Amended by the publication of this Notice of Adoption of Amendments to the Procedural Rules on June ____, 2004.

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§1.03 Filing and Computation of Time.

(a) *Method of Filing*. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. ***When specifically requested by the Executive Director, or by a Hearing Officer in the case of a matter pending before the Hearing Officer, or by the Board of Directors in the case of an appeal to the Board, any document may also be filed by electronic transmittal in a designated format, with receipt confirmed by electronic transmittal in the same format.*** Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . . .

Discussion: The Office is beginning the process or migrating to electronic filing of documents. Because of the limitations in current capabilities, this authorization is optional, and provides for a designation of the format to be utilized. The Rule does not contemplate that a party will be involuntarily required to file electronically. The authorization for such filing must be made by the official(s) before whom the filing is pending.

* * * * *

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or fled by express mail or other forms of expedited delivery in which proof of date of receipt by the addressee is provided.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9–11, the Office has determined that additional flexibility in the use of comparable document delivery services is needed.

* * * * *

2.03 Counseling.

(a) *Initiating a Proceeding, Formal Request for Counseling*. In order to initiate a proceeding under these rules, an employee shall ***[***formally***]*** ***file a written*** request ***for*** counseling ***[***from***] with*** the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All ***[***formal***]*** requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

Discussion: Requiring a written request for counseling provides the Office with documentation of the request. Such documents remain confidential, as required by section 416 of the Act, and by the Procedural Rules.

* * * * *

(c) *When, How, and Where to Request Counseling*. A ***[***formal***]*** request for counseling ***must be in writing, and [***: (1)***]*** shall be ***[***made***] filed*** **pursuant to the requirements of section 2.03(a) of these Rules *with the Office of Compliance at Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999, [telephone 202–724–9250;] FAX 202–426–1913; TDD 202–426–1912***, not later than 180 days after the alleged violation bf the Act.***[;]*** ***[***(2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912.***]***

Discussion: This amendment conforms to the amendment at section 2.03(a).

* * * * *

(l) *Conclusion of the Counseling Period and Notice*. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, ***or by personal delivery evidenced by a written receipt.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9–11, the Office has determined that additional flexibility of personal delivery is needed, as long as that delivery can be verified.

(m) *Employees of the Office of the Architect of the Capitol and the Capitol Police*.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within *[*10*] 60* days after the expiration of the period recommended by the Executive Director, if the matter has not *[*been resolved*] resulted in a final decision*; or

(B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, ***the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure.*** *[*or i*] I*f no request to return to the procedures under these rules is received within *[*the applicable time period*] 60 days after the expiration of the period recommended by the Executive Director,* the Office will *[*consider the case to be closed in its official files*] issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.*

Discussion: Section 401 of the Act authorizes the Executive Director, "after receiving a request for counseling . . . [to] recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation." The extension of the grace period in the case of a matter which has not been concluded in 60 days provides the parties additional time to complete the grievance process. The issuance of a Notice of End of Counseling rather than the administrative closure of a matter ensures that no employee inadvertently loses the opportunity to continue to pursue a matter, which has not been successfully concluded through the agency grievance procedure. If an employee notifies the Office of a desire to return to the Office dispute resolution procedure pursuant to subsection (ii) above, the time remaining in counseling shall not include any time between the filing of the request for counseling, and the date of issuance by the Executive Director of a recommended referral. Thus, for instance, if the Executive Director recommends referral 5 days after the filing of a Request for Counseling, the time remaining in counseling as of the date the Office receives a notification of return would be 25 days.

2.04 Mediation.

. . . . .

(e) *Duration and Extension*.

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint ***written*** request of the parties ***or of the appointed mediator on behalf of the parties to the attention of the Executive Director.*** The request *[*may be oral or*] shall be* written and *[*shall be noted and*]* filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

Discussion: This amendment authorizes a mediator or both parties to submit a request for extension. The Office will accept joint requests by the parties in which the signature of a party has been authorized to be executed by the other party, as long as that authorization is stated in the submission.

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(i) *Conclusion of the Mediation Period and Notice*. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, ***or will be [hand] personally delivered, evidenced by a written receipt,*** and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 405 of the Act and section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9–11, the Office has determined that additional flexibility of personal delivery is needed, as long as that delivery can be verified.

* * * * *

2.06 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court. The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act shall provide a written notice to the Office that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number.

Discussion: The Office of Compliance is required by the Act to educate Members of Congress, employing offices, and employees regarding their rights and responsibilities under the Act (section 301(h)); to ensure that an employee has not filed both a District Court and an administrative complaint in violation of section 404; and to monitor any judicial interpretation of the Act or review of Office regulations pursuant to sections 408 and 409. Requiring such notice by a party to a matter which has been processed through counseling and mediation before this agency pursuant to a duly promulgated rule of this agency does not violate any applicable attorney rule of professional conduct.

* * * * *

§ 5.03 Dismissal, *Summary Judgment,* and Withdrawal of Complaints.

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(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity for the parties to address the question of summary judgment, issue summary judgment on some or all of the complaint.

Discussion: This amendment clarifies the existing authority of Hearing Officers to issue summary judgment or partial summary judgment.

(*[*d*]e*) *Appeal*. A *[*dismissal*] final decision* by the Hearing Officer made under section 5.03(a)-*[*(c)*] (d)* or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01. ***A final decision under section 5.03(a)-(d) which does not resolve all of the claims or issues in the case(s) before the Hearing Officer may not be appealed to the Board in advance of a final decision entered under section 7.16 of these rules, except as authorized pursuant to section 7.13 of these rules.***

Discussion: This amendment clarifies that any final decision which does not completely dispose of a matter will be treated as an interlocutory appeal.

(*[*e*]f*) . . . . .

(*[*f*]g*) . . . . .

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§ 7.02 Sanctions.

(a) The Hearing Officer may impose sanctions on a party's representative necessary to regulate the course of the hearing.

Discussion: This rule is procedural. The Office of Compliance is required by section 405(d)(3) of the Act to conduct its hearings "to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of [the Administrative Procedure Act found at] title 5, United States Code." The phrase "necessary to regulate the course of the hearing" is derived from section 556(c)(5) of the Administrative Procedure Act, 5 U.S.C. 556(c)(5). Agency tribunals operated under the Administrative Procedure Act possess broad authority to regulate the practice and conduct of attorneys and other representatives appearing on behalf of parties to proceedings before them.

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

(*[*a*]1*) *Failure to Comply with an Order*. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

(*[*1*]a*) . . . . .
(*[*2*]b*) . . . . .
(*[*3*]c*) . . . . .
(*[*4*]d*) . . . . .
(*[*5*]e*) . . . . .
(*[*6*]f*) . . . . .
(*[*7*]g*) . . . . .
(*[*b*]2*) . . . . .
(*[*c*]3*) . . . . .

* * * * *

§ 8.01 Appeal to the Board.

. . . . .

(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(3) Upon written delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any post petition for review document or-submission with the Board in any case in which the Executive Director has not rendered a determination on the merits. Such delegation shall continue until revoked by the Board.

Discussion: This ministerial delegation is not a "substantive" rule. The extension of filing deadlines is limited to the parameters of a written authorization from the Board, and cannot affect the requirement of section 406(a) that a party must "file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office."

* * * * *

§ 9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) *Filing with the Office; Number*. One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer ***or a party to any other matter or determination reviewable by the Board*** files an appeal ***or other submission*** with the Board, one original and seven copies of ***[***both***]*** any ***[***appeal brief***] submission*** and any responses must be filed with the Office. ***The Office[***r***], Hearing Officer, or Board may also request a party to submit an electronic version of any submission [***on a disk***] in a designated format, with receipt confirmed by electronic transmittal in the same format.***

Discussion: The addition of the phrase "or other matter or determination reviewable by the Board" references those controversies over which the Board has jurisdiction, but which are not initially determined before a Hearing Officer. These other matters or determinations include collective bargaining representation and negotiability determinations made by the Board pursuant to Part 2422 of the Office of Compliance Rules, review by the Board of arbitration decisions pursuant to Part 2425 of the Rules, determination of bargaining consultation rights under Part 2426 of the Rules, requests for statements of policy or guidance by the Board under Part 2427 of the Rules, enforcement of standards of conduct decisions and orders by the Assistant Secretary of Labor of Labor Management Relations pursuant to Part 2428 of the Rules, and determinations regarding collective bargaining impasses pursuant to Part 2470 of the Rules. Some of these matters are addressed to the Board in the first instance. Submission by electronic version is an option in addition to the existing methods for filing documents. See also amended rule 1.03(a), supra. This addition reflects the decision of this agency to begin migrating toward electronic filing of submissions. Because of the limitations in current capabilities, this authorization is optional, and provides for a designation of the format to be utilized. The Rule does not contemplate that a party will be involuntarily required to file electronically. The authorization for such filing must be made by the official(s) before whom the filing is pending.

* * * * *

§ 9.03 Attorney's fees and costs.

(a) *Request*. No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. ***All motions for attorney's fees and costs shall be submitted to the Hearing Officer. T***he Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion. ***Decisions regarding attorney's fees and costs are collateral and do not affect the finality or appealability of a final decision issued by the Hearing Officer. A ruling on a motion for attorney's fees and costs may be appealed together with the final decision of the Hearing Officer. If the motion for attorney's fees is ruled on after the final decision has been issued by the Hearing Officer, the ruling may be appealed in the same manner as a final decision, pursuant to section 8.01 of these Rules.***

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

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§ 9.05 Informal Resolutions and Settlement Agreements

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(b) *Formal Settlement Agreement*. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. ***If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.***

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties or their designated representatives on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise permitted by law.

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be apart of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act. Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Act empowers the Executive Director to exercise final approval over any settlement agreement. Otherwise, no settlement agreement shall "become effective." See 2 U.S.C. 1414. This procedural rule provides a dispute resolution procedure which is designed to preserve the confidentiality of any settlement agreement to the maximum extent possible, should the parties not include another dispute resolution mechanism in the settlement agreement which is approved by the Executive Director.

§ 9.06 Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 4050, 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.

Discussion: This rule memorializes existing practices authorized under section 415(a) of the Act.

§ 9.07 Revocation, Amendment or Waiver of Rules.

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CONGRATULATING RAE ANN RED OWL OF PINE RIDGE, SOUTH DAKOTA ON HER MASTER'S DEGREE IN NURSING

Mr. DASCHLE. Mr. President, as my colleagues will attest, I routinely come to the Senate floor to discuss the numerous challenges facing Native Americans in my state, and across Indian Country. While I've spoken at length about the need to address Indian education, Indian health care, and economic development on Indian reservations, I am here today for a different reason: to congratulate one of my constituents on an extraordinary accomplishment.

Earlier this month, Rae Ann Red Owl of the Pine Ridge Reservation became the first Lakota person, man or woman, to receive a master's degree from the nursing program at the University of North Dakota. More than that, when she walked across the stage, she became the first woman ever from Pine Ridge to earn a master's degree in nursing.

While earning a master's degree is a remarkable achievement, for Rae Ann, this step represents yet another obstacle overcome in a long life of beating the odds. Rae Ann can trace her desire to attend college all the way back to when she was in fifth grade and had to get a ride to school with her grandfather because she had overslept and missed the school bus. As her grandfather drove her to school, he told her, ''education is the most important thing in life.'' That advice made her decide right then and there that she wanted to attend college.

Unfortunately, fulfilling dreams like this one is easier said than done in Indian Country. Rae Ann grew up on Pine Ridge, one of the poorest Indian reservations in the country. In a community where rates of alcohol and drug abuse are well above the national averages, Rae Ann was not immune to such pressures. But, instead of succumbing to these problems, she defeated them, and set a new course for her life.

Rae Ann applied for, and was accepted to, the Indians Into Medicine Program at the University of North Dakota. As she set out to pursue her dream, she found herself away from her home and her family for the first time, all the while caring for her two young daughters. In 1989, after years of studying, she graduated with a nursing degree, returned to Pine Ridge, and landed a job working for the Indian Health Service. Twelve years later, she realized that, with additional training, she could do even more to improve the quality of life on Pine Ridge—especially at the IHS—and returned to the

University of North Dakota in 2002. Last month, Rae Ann received her master's degree in nursing. After hearing about all of Rae Ann's accomplishments, and about the adversity she's overcome, it will come as no surprise to my colleagues that she plans to continue her education by enrolling in law school this fall.

When so many stories exist about the tremendous obstacles Native Americans face—in getting an education, gaining access to health care, and improving their quality of life—it is important for all of us to recognize success stories like Rae Ann's. Not only is Rae Ann a role model for her tribe, she is an example for all people who face adversity as they strive to fulfill their dreams. I would like to extend my personal congratulations on her recent achievement, and wish her the best of luck in all her future endeavors.

U.S. AID AND TERRORISTS

Mr. MCCONNELL. Mr. President, I want to take a very brief moment to speak to an article entitled ''U.S. Aid Goes to Terrorism Backers'' that appeared in today's edition of the Washington Times.

The allegation that American foreign assistance dollars in the West Bank and Gaza are going to Palestinian groups ''working with or fostering terrorist-supporting organizations'' is a serious one. The United States Agency for International Development, USAID, and the U.S. Department of State must immediately clarify these troubling reports, and I urge them to do so in an expeditious and public manner.

My colleagues should note that we already require the Secretary of State to ensure that no assistance for the West Bank and Gaza goes to, or through, individuals or entities ''the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activities.''

I will have more to say on this issue once USAID and the State Department clarify this matter.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In January 2000, a gay Mississippi man, was murdered by Brett David Kabat. Tolbert was kidnapped from a Biloxi gay bar and brutally strangling him and beating him to death before dumping his body in Alabama and stealing his truck. Because his friends say Tolbert was gay, was last seen at a gay bar, and the nature of his murder was particularly brutal, it is believed that Tolbert was targeted because he was gay. When Tolbert's body was discovered, he was beaten beyond recognition with just a few teeth left in his mouth.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

WORLD DAY AGAINST CHILD LABOR

Mr. HARKIN. Mr. President, it is with a sense of sorrow that I rise today to speak about the practice of abusive and exploitative child labor, as well as to recognize World Day against Child Labor, which occurred on June 12. Unfortunately, hundreds of millions of children are still forced to work illegally for little or no pay. The International Labor Organization has set aside this day to give a voice to these helpless children who toil away in hazardous conditions.

We should not only think about these children on June 12. We should think about this last vestige of slavery every day. I have remained steadfast in my commitment to eliminate abusive and exploitative child labor. It was in 1992 that I first introduced a bill to ban all products made by abusive and exploitative child labor from entering the U.S.

Since I introduced that bill, we have made some progress in raising awareness about this scourge. In June of 1999, ILO Convention 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, was adopted unanimously in the ILO and here in the U.S. Senate. This was the first time ever that an ILO convention was approved without one dissenting vote. In record time the Senate ratified ILO Convention 2 with a bipartisan, 96–0 vote.

For the first time in history the world spoke with one voice in opposition to abusive and exploitative child labor. Countries from across the political, economic, and religious spectrum—from Jewish to Muslim, from Buddhists to Christians—came together to proclaim unequivocally that abusive and exploitative child labor is a practice which will not be tolerated and must be abolished.

Gone is the argument that abusive and exploitative child labor is an acceptable practice because of a country's economic circumstances. Gone is the argument that abusive and exploitative child labor is acceptable because of cultural tradition. And gone is the argument that abusive and exploitative child labor is a necessary evil on the road to economic development. When this convention was approved, the United States and the international community as a whole laid those arguments to rest and laid the groundwork to begin the process of ending the scourge of abusive and exploitative child labor.

As of today, 50 countries have ratified ILO Convention 182. In fact, since the ILO was established in 1919, never has one of it treaties been ratified so quickly by so many national governments.

In May of 2000, the Senate enacted the Trade and Development Act of 2000. This act included a provision I authored that requires more than 100 nations that enjoy duty-free access to the American marketplace to implement their legal commitments to eliminate the worst forms of child labor in order to keep these trade privileges.

In 2001, Congressman ENGEL and I, along with the chocolate industry, negotiated the Harkin-Engel Protocol. This plan addresses abusive and exploitative child labor within the cocoa and chocolate producing countries of West Africa. This agreement will for the first time make possible the ability to publicly certify that cocoa used in chocolate or related products has been grown and processed without abusive child labor. This historic agreement represents a true partnership between industry and government to stamp out abusive and exploitative child labor.

In an effort to continue to raise awareness, last month the first Children's World Congress about Child Labor was held in Florence, Italy. The Congress was organized by the Global March and my good friend Kailash Satayarthi. At this conference child delegates from all across the world joined with the common purpose of discussing and raising awareness about the atrocities of abusive child labor. I would like to commend Kendra Halter, one of my constituents, from Iowa City, who was selected to participate as a U.S. delegate to the Congress.

The child delegates participated in workshops and were allowed to question foreign leaders and government officials from various countries to include the United States. The Congress produced a declaration that stressed the need for governments to take direct action combating this issue by providing free quality education. The declaration also calls for parents and youth of all countries to get involved in the spreading of awareness of this scourge.

In spite of all of these successes there is much more to be done. Currently, according to the ILO, there are 246 million child laborers in the world. 73 million of those are under the age of 10, and approximately 22 thousand children die in work related accidents every year. Abusive and exploitative child labor is prevalent in many parts of the world, including in our backyard.

In the June 10 edition of the Washington Post, the issue of abusive child labor once again made the headlines. The article brings to light the troubled life of a child aged 14 and his family as they labor dangerously in the sugar

cane fields of El Salvador. The young boy has been working in the fields for more than half of his life. His four brothers and sisters are also forced to work with him, his youngest brother is nine. Their tiny bodies are gashed by machetes and burned by hazardous fertilizers. These children and hundreds more are denied an education and in turn will be destined to a life of poverty. This is not what should be happening in the 21st century.

In fact, the Bush administration has recently finished negotiating a subregional free trade agreement with the Central American countries. El Salvador is one of six countries participating in the Central American Free Trade Agreement or CAFTA. In my view, we should not be negotiating free trade agreements with countries that do not enforce their own labor laws and international standards. Not only is it my view but it is U.S. law.

Abusive and exploitative child labor should be a thing of the past. The United States should not continue to turn a blind eye to this scourge. It is time that we enforce our laws and international standards and ensure that countries are raising their standards on this issue. If we did our part to ensure that children were learning and not laboring, there would not be a need to have a day dedicated to end child labor.

I ask unanimous consent to print in the RECORD declaration to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILDREN'S DECLARATION

CHILDREN'S WORLD CONGRESS ON CHILD LABOUR—10–13 MAY 2004

We are the Present, Our Voice Is the Future!

We, the delegates of the Children's World Congress on Child Labour, have come to the city of Florence, Italy, from all different parts of the world, speaking different languages, growing up with different cultures and backgrounds, because we all know that child labour must be eliminated.

Although our Congress has been successful, we are missing some of our important delegates. These children were already selected to participate in the Congress. But, these children did not get visas necessary to come to Italy because the Italian government thought them as a security risk. These children who were not allowed to attend, felt very discriminated. We all missed their ideas at the Congress, because these children are from the regions where child labour is most common. At the next Congress, we would like to see them participate because their voice is their vision and the world must hear it.

Each country had a different selection process to choose the delegates. All children who participated in the selection process had either faced child labour in their own experience or had learned about it and joined the fight against child labour. With the passion and desire to solve this terrible crime against 246 million children around the world, we were all qualified to take part in this Congress. This is why the discussions for the last 3 days have been very fruitful.

What follows in our Declaration is the responsibility, of all including the business sector and others who hold the power to help us in our struggle.

Before we even start to discuss about child labour, we must appreciate that the only way the children can have their rights is in the situation of peace. Peace is the most basic human right. We have to ask ourselves why everyone is not able to have something so fundamental. While living in peace, every child has not only a better chance of getting their rights, but also has a stronger potential to improve the world for their generations and those to come.

When we started discussing about child labour, we found that many issues were common to all different parts of the world. We heard personal stories from the children about; child trafficking, sexual exploitation, working on fishing boats, cleaning cars, selling things on street or in market, pornography, collecting garbage, transportation and shipping, brick making and demolishing, the making of medical utensils and other dangerous materials, drug trafficking, domestic servants, bounded labourers, farming, mining, weaving carpets, child soldiers, working in factories and sweatshops. These children are misused everyday and have no one to speak for them.

While most people and governments are aware these problems exist, they are hidden or just ignored. This does not change the fact they all are very dangerous to the physical and mental well being of a child. These forms of child labour must be stopped.

Most of the children have expressed that they are losing faith in the governments because of their empty promises. They have made many promises to end child labour through education and better social services. But they do not act. Their promises are not met with real commitment or resources.

While the governments put an enormous amount of money to weapons and war, there are still children who cannot read or write. They have no homes to live in or food to eat. The government must take the needs of children as a priority. They must provide all that is necessary to live while still protecting our rights.

As it is a responsibility of governments to protect our rights, end child labour, and provide free, equal education or good quality, we have many demands for the governments. When we speak about the governments, we talk not only about the role of national governments but also other governmental bodies at international and regional levels that are responsible for protecting our rights.

First and most importantly, governments must listen to children. The governments make the issues of the children a priority and include the children in the decision-making that affects our lives. Governments must also provide opportunities for children to participate and express their opinions because they are the future as well as the present and their opinion should be valued

Governments must criminalise child labour but should never criminalise the children. The children are victims of child labour. They must create and carry out laws that strictly punish the adults who have abused children for their own interest. Governments must support the children if they want to bring the cases of them being used as child labourers to court, by providing a free attorney. Children should be able to turn in the people who have abused them without fear of getting trouble. Instead, these children should be rescued and rehabilitated.

Governments must fight against trafficking of children. They must enforce the laws they already have. But today's laws may not be enough so they must make more effective ones. The governments in countries where trafficking happens must work together to have laws which can criminalise the traffickers.

Governments must provide compulsory education of quality at free of cost. Schools must provide skilled teachers who are qualified. There should be a mechanism to check that the teachers are doing their job well and these laws to provide education for all children are enforced. The teachers must get paid better. Education must also be provided equally to all children regardless of gender, race, economic status, religion, places of birth, citizenships, caste, disability, indigenousness or languages.

Every country has to make sure the issue of child labour is taught in every school.

Governments should encourage adults to work. Adults should work so they have enough money not to put their children to work. The rights of adults as workers have to be respected. Adult workers always have to be allowed to unionise in their workplace, because the union can help protect them from dangerous working conditions and provide them the minimum wage. It is important that adults are protected as workers so that the children do not have to work.

Governments must establish a National Plan of Action to end child labour. These plans should be made together with children.

Governments must make sure that overseas development aid (ODA) goes directly to its purpose and does not end up in the wrong hands.

Governments must make a system to put some trademarks for the products that are not made by child labourers.

Governments, not only should they work with other governments, they should also work with civil society and trade unions to be at most effective. In return, the civil society must understand the demands of the children and work together with us to watch them closely so that the governments will not fail us again. NGOs also have to use the resources that they have honestly and directly for the children.

It is also parents' responsibility to listen to children.

The children need love, respect and dignity. It is in the hands of parents to provide with happy and stable family life. Parents must take their responsibility and vote. When they vote, they must also speak for the children and vote for someone who respects child rights. If the parents are not acting in the best interest of the child, the state must act on the child's behalf. Parents must talk about issues such as child sexual exploitation or abuse even when they are not comfortable because this is the only way a child will know his or her natural rights of safety and security. Parents must understand the importance of a proper education no matter of the gender of the child.

Having identified the current situation of child labour and our demands to the adults, we now show our commitment and the role in ending child labour.

We, the children, have to start initiatives to spread awareness about child labour in our own local communities and villages. We must educate each other about child labour, from a child to a child to promote child participation.

We must work at national level and establish a Children's Parliament, in every country, that is not just a symbol but a source of power for children to change the situations that we think are wrong. This Parliament would elect a representative to the country's government. These representatives would also meet at a congress at regional and at international to look at the problems at a larger scale, and report back to their governments and local communities.

We have to start a network of children so that we can keep contact with each other to

be educated on the issue all over the world. Only while working together, we can have the power to take action and to end child labour. This network will be made up of children from all over the world, and it will spread the stories of child labour and opinions. The network will help us plan more effective actions in our struggle against child labour. The network will also be a medium to report on the governments' failing or not failing their promises among the children of the world.

We believe that the use of art, dance, music and drama as a form of expression and means to spread awareness about child labour is very important. These are ways in which children from any background can connect with, understand and enjoy. There are many ways to spread the message against child labour, beyond boarders, through performing art.

We must also use media to spread our voices. We would create our own form of media, such as newspaper developed by the children for the children, for us to freely express our opinion. Media also must be more friendly and tell the truth about child labour and help us combat child labour.

We have to bring the efforts to end child labour out to the villages, where the fight is not as strong. Information about child labour sometimes only reaches cities and people in the villages do not have information about the dangers of child labour. We must get them involved.

We promise to continue to take action to eliminate child labour and make a better world for children. Now, we ask all of you to join us, because only together can we truly achieve freedom for all. In this friendship, we will create a healthy and peaceful world for all.

Today, the power is in our hands. We define the future.

We are the present and our voice is the future.

ENERGY BILLS UNDER CONSIDERATION BY THE HOUSE OF REPRESENTATIVES

Mr. JEFFORDS. Mr. President, as the ranking member of the Senate Environment and Public Works Committee, I express my serious concern with several pieces of so-called energy legislation that the House of Representatives is considering this week. This package of bills includes a comprehensive energy bill that differs both from the failed conference report on H.R. 6 and from the Senate energy bill that was introduced on February 12, 2004, and placed directly on the calendar.

These bills are not the product of hearings or of bipartisan consensus between the House and the Senate. The comprehensive energy bill the House is considering is nearly identical to the energy bill conference report we have already defeated. The other bills are equally troubling. They trample States rights and they enact significant new taxpayer subsidies. Most importantly, they are not the right energy policy for America.

I have for many months now said that we should try to reach consensus on targeted pieces of energy legislation. We could pass legislation on issues such as the increased production of renewable motor fuels. We could enact fiscally responsible extensions of needed energy tax provisions, such as the wind energy tax credit. National electricity reliability standards are another area in which Senator CANTWELL, Senator FEINGOLD and I believe there could be agreement and we could pass a bill. I also believe there are a number of energy efficiency measures that could garner broad support.

But, there should be no agreement on the poor environmental policy that is contained in these bills. The Senate should reject them if they are passed and sent over for consideration.

The omnibus bill the House passed yesterday, H.R. 4503, is identical to the failed conference report on H.R. 6, except for the inclusion of two coal-related provisions that are in the pending Senate bill, S. 2095.

As with the energy bill conference report, nearly a hundred sections of the bill are in the jurisdiction of the Environment and Public Works Committee. We were not consulted on any of these sections, the House has made no effort to fix these provisions, and I have repeatedly raised concerns about them on the Senate floor.

The waiver of liability for MTBE producers is included in the House's bill. The Senate has repeatedly rejected this provision.

The House bill unravels the ozone designation process in the Clean Air Act by delaying compliance with the national health-based air quality ozone standards until the air in the dirtiest city is cleaned up. The House insists on this leftover from the failed energy bill conference report, though changing cities' ozone compliance deadlines under the Clean Air Act doesn't increase our Nation's energy supplies.

This bill also provides unprecedented relief for a single region of the country from application of the entire Clean Air Act, without a hearing.

The House continues to insist that oil and gas exploration and production activities be exempted from the Clean Water Act stormwater program.

The Clean Water Act requires permits for stormwater discharges associated with construction activity. The amendment changes the act to provide a special exemption for oil and gas construction activities from stormwater pollution control requirements.

The scope of the provision is extremely broad. Stormwater runoff typically contains pollutants such as oil and grease, chemicals, nutrients, metals, bacteria, and particulates.

I have told colleagues this before, but EPA estimates that this change would exempt at least 30,000 small oil and gas sites from clean water requirements. In addition, every construction site in the oil and gas industry larger than 5 acres would be exempt as well.

The large sites have held permits for 10 years or more. That is a terrible rollback of current law. I want Senators to imagine trying to explain to constituents why an oil drilling site that had to comply with the Clean Water Act for 10 years suddenly no longer needs to do so.

The House is scheduled to act today on another bill, H.R. 4517, called the United States Refinery Revitalization Act of 2004. It gives the Department of Energy a lead role in environmental permitting decisions for refineries in a newly designated ''refinery revitalization'' zone. The Energy Department would get the ability to issue permits and make ''federal authorization decisions'' under our major environmental laws including: the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the National Environmental Policy Act, and our national solid and hazardous waste laws, among others.

The Energy Department would get to make environmental regulatory decisions and set compliance deadlines. This is a classic case of the fox guarding the hen house. Moreover, if a permit is denied , there would only be an appeal to the DOE Secretary and then judicial review in the D.C. Circuit Court. The EPA, which normally makes these decisions, has no role at all.

In an effort to assure Members, there is a savings clause in the bill that is supposed to protect environmental laws. The bill includes language that contradicts the savings clause provisions. It states that if the best available pollution control technology is used at a facility then that facility is in compliance with all environmental permitting requirements. In addition, the role of states is not clear, particularly those with more stringent standards.

While this bill proposes to increase our domestic refining capacity, it will not do so. In fact, it is drafted in a way that will likely reduce our supplies of gasoline and heating oil.

The bill is supposed to restart idled refineries. It defines ''idle refineries'' as those that have shut down after June 1, 2004. Let me say that again for my colleagues, idle refineries are refineries that shut down after June 1, 2004. These are not refineries that have been mothballed and shut down for many years. These so-called idle refineries could be operating now and then shut down after enactment of the bill in order to game the system. The refineries would seek regulatory relief under a newer, inexperienced regulatory agency, and drive prices even higher by further constraining production. This is a tragic outcome, and certainly not one that expands our Nation's refining capacity.

The House passed another bill yesterday, H.R. 4513, that exempts Federal agencies planning renewable energy projects from the National Environmental Policy Act. Federal agencies would no longer have to identify alternative project locations when they site a renewable energy project. They also would no longer have to examine alternatives to the project other than the actions they propose to take, or the option of doing nothing at all. Like the

refinery bill, this bill has bad consequences. While the bill seeks to speed up renewable energy projects, it is really a way to trample over Federal environmental laws or State and local requirements. For example, a city's objections to a windmill or solar panels proposed for the top of a downtown federal building may not have to be resolved or alternatives considered, even if there are local scenic concerns or conflicts with zoning ordinances. In a regular NEPA process, discussion could resolve those concerns and produce a project that meets both Federal and local needs. We should be reaching agreement over the development of renewable energy, not creating conflicts.

Also today, the House will take up H.R. 4545, the Gasoline Price Reduction Act of 2004, a bill that proposes to increase gasoline supplies by capping the number of so-called boutique fuel blends. This bill is not likely to have a beneficial effect in terms of reducing gasoline prices or increasing supplies, and appears designed to significantly worsen air quality. It allows EPA open-ended authority to waive cleaner-burning gasoline or diesel requirements indefinitely based on an undefined ''significant fuel supply disruption.'' In addition, EPA's determination appears not to be judicially reviewable, since the EPA Administrator need only deem a waiver ''necessary.'' Further there is no obligation to mitigate or make up for the excess air pollution that may occur over the waiver period.

This bill also would bar any increase in the number of existing fuels and fuel additives. This would apply to any State-adopted ultra-low sulfur diesel, biodiesel or cleaner-burning gasoline programs, even though these programs do not affect gasoline prices or supply, and regardless of the fact that they may be needed to meet new, health-based air quality standards for ozone or fine particulate pollution.

There are too many serious problems with these bills. The American people do not want us to act at the expense of environmental quality. We should be passing the pieces of the energy bill where we can reach agreement to do so, like those issues I outlined.

We should not be rushing to pass legislation with such serious consequences. These are aggressive, overreaching bills, and are deeply flawed. I will oppose them, and other Senators should as well.

ENERGY TRADING OVERSIGHT

Mr. FEINGOLD. Mr. President, the recent release of audiotapes of Enron traders gloating about their ability to manipulate energy markets should jolt the Senate into passing S. 2015, the Energy Needs Regulatory Oversight Now or ENRON Act.

A public utility near Seattle, which is trying to get back the money it lost to Enron's unscrupulous energy trading practices, received the tapes from the Justice Department. These tapes confirm what we all suspected: Enron manipulated energy markets and gouged consumers. According to these tapes, Enron traders celebrated when a forest fire shut down a major transmission line into California in 2000. This shut down cut power supplies and raised energy prices. An energy trader sang: ''Burn, baby, burn. That's a beautiful thing.'' These taped conversations also provide evidence that Enron made secret pacts with power producers and Enron traders deliberately drove up prices by ordering power plants to shut down. The traders also brag about their ability to manipulate markets and steal money from the ''grandmothers of California,'' who one trader called ''Grandma Millie.'' The arrogance of these traders shocks the conscience. It also demonstrates the need for Congress to protect consumers from energy market manipulation. We cannot let the market abuses that took place during the Western energy crisis of 2000 happen again.

S. 2105 requires the Federal Energy Regulatory Commission to prohibit the use of manipulative practices like these that put at risk consumers and the reliability of the transmission grid. We learned from this crisis that electricity markets need close government oversight to ensure that companies do not engage in risky and deceptive trading schemes leading to soaring energy prices and their own possible financial failure. In both cases, consumers—the people who depend upon the electricity these companies generate or trade—are the losers.

The Senate recently went on record in support of barring abusive energy market practices when it approved an amendment to the fiscal year 2004 agricultural appropriations bill offered by Senator CANTWELL. I am disappointed this language was stripped from the omnibus spending bill. These necessary protections were also omitted from the final energy conference report and the revised energy bill we voted on in April.

We need to send a clear message to the energy industry that this behavior will not be tolerated, and we must show consumers that we will protect them from energy market manipulation. I am proud to cosponsor S. 2015 and encourage my fellow colleagues to pass this legislation.

TRIBUTE TO DR. JUDITH RODIN

Mr. SPECTER. Mr. President, I have sought recognition to pay tribute to Dr. Judith Rodin, who on June 30, 2004, will complete a remarkable 10-year presidency of the University of Pennsylvania, my alma mater.

When she came to the University of Pennsylvania in 1994, Dr. Rodin became the first woman president of an Ivy League school. During her tenure, she has led the University of Pennsylvania through a period of growth and development that has transformed the University academically and greatly improved the quality of life on campus and in surrounding West Philadelphia.

Since 1994, the University of Pennsylvania has doubled its research funding, tripled both its annual fundraising and endowment and attracted record numbers of undergraduate applicants. However, Dr. Rodin's greatest legacy will be her response to the challenge the University of Pennsylvania faces as a citizen of West Philadelphia.

From her first days as President of the University of Pennsylvania, Dr. Rodin made clear that one of her core beliefs was that a great research university must also be a great neighbor.

Dr. Rodin established the West Philadelphia Initiatives—a multi-faceted urban-planning and community-development program which has reduced crime and blight, increased job opportunities and improved the quality of life in West Philadelphia. This program in turn has reinforced the University's ability to attract the best students, faculty, staff and research opportunities.

The success of the West Philadelphia Initiatives in bringing employment, investment and quality-of-life improvements to West Philadelphia has become a model for collaboration between universities and urban communities throughout the United States. Key to the success of the program has been Dr. Rodin's acute understanding of the problems facing the West Philadelphia community, as a native Philadelphian.

Dr. Rodin was born in Philadelphia and attended Girls' High School, where she was a Mayor's Scholar. As an undergraduate at the University of Pennsylvania, she showed great talent both in the classroom and in politics, where, as president of the women's student government, she helped to lay the groundwork for a merger with the men's student government.

Dr. Rodin later earned a doctorate in psychology at Columbia University, and spent two decades on the faculty at Yale University, where she worked tirelessly to research and explain the biological and psychological factors that lead to obesity—a critical health issue facing our country today.

She also helped launch the women's health movement, and expanded our understanding of aging by demonstrating that elderly people who are empowered lead more active, healthier, and longer lives than those who are consigned to helplessness. It is a true testament to Dr. Rodin that she brought with her to the University this same resolve and tremendous passion to serve the students of the University of Pennsylvania and the less fortunate of the West Philadelphia community.

As a graduate of Penn, I am pleased to be able to honor Dr. Judith Rodin today, as a great Philadelphian, Pennsylvanian, and American, and perhaps most important, a great University of Pennsylvania Quaker.

I thank her for her service and wish her the best in the future.

TENTH ANNIVERSARY OF U.N. CONVENTION TO COMBAT DESERTIFICATION

Mr. JEFFORDS. Mr. President, I rise today to mark the tenth anniversary of the United Nations Convention to Combat Desertification. Since its adoption on June 17th, 1994, some 190 countries, including the United States, have become party to the convention. But for those looking for reasons to celebrate on this tenth anniversary, the news on desertification is not good at all. Indeed, the scope and pace of desertification have increased over the last two decades. In some parts of the world, the rate of desertification has doubled since the 1970s. By 2025, according to the United Nations, two-thirds of the arable land in Africa will be gone.

Today, desertification threatens an astonishing one-third of the earth's land surface, directly affecting over 250 million people and threatening the livelihoods of some 1.2 billion more. Most of these people live in the world's poorest countries, caught in a vicious cycle of accelerating poverty and environmental degradation. Disruptions associated with climate change will likely make things worse.

No one has to be reminded of how important fertile soil has been to human societies. But what can take centuries to form can be eroded or blown away in a matter of years. Loss of arable land directly undermines food security, displacing large numbers of people, creating new opportunities for sickness and disease, and, in some cases, contributing to famine. These sorts of pressures also work to exacerbate political instability in so-called weak states.

Indeed, the links between desertification and security are increasingly apparent, as recognized by a recent NATO workshop on the issue. It is high time that policy makers in the United States take these linkages seriously.

But it is also high time to recognize that desertification is fundamentally a humanitarian issue. We cannot remain indifferent while millions suffer from the effects of desertification. This was the impetus that drove the international community to negotiate and adopt a formal convention ten years ago. As we mark the tenth anniversary of the convention, we would do well to remember this and to acknowledge that we must redouble our efforts to combat this global environmental problem.

Unfortunately, the United States has so far failed to play a leading role in the global effort to combat desertification. Although we finally became a party to the convention in 2000, we have never been especially active. I urge the current administration to step up and take a more active role in the convention. Without active participation and leadership by the United States, the effectiveness of international efforts to combat desertification will be limited at best.

ADDITIONAL STATEMENTS

HONORING THE ACCOMPLISHMENTS OF DAVID GRUENWALD

• Mr. BUNNING. Mr. President, I pay tribute and congratulate David Gruenwald of Owensboro, KY on being named a distinguished finalist for the Prudential Spirit of Community Awards. This award honors young people in middle level and high school grades for outstanding volunteer service to their communities.

David Gruenwald has proven himself to be an ideal volunteer. While he is only 14 years old, he has already done more volunteer work than many people will do in their whole life. As a project to become an Eagle Scout, David started a book drive for inmates at the Daviess County Detention Center. He went above the call of duty and began to enlist his classmates at Owensboro Catholic Middle School. Soon they had increased the size of the facility's library from about 30 books to 2,900.

The citizens of Owensboro are fortunate to have a young man like David Gruenwald in their community. His example of dedication, hard work and compassion should be an inspiration to all throughout the entire Commonwealth.

He has my most sincere appreciation for this work, and I look forward to his continued service to Kentucky.•

DR. HENRY N. TISDALE

• Mr. GRAHAM of South Carolina. Mr. President, I wish today to commend and congratulate Dr. Henry N. Tisdale on the occasion of the celebration of his 10th anniversary as president of Claflin University and to wish him continued success as he leads this historic institution of higher education.

Dr. Tisdale has positioned Claflin as one of the premier liberal arts institutions in the Southeast, moving the university to the ''Top Tier'' and ''Top Ten'' ranking among comprehensive baccalaureate granting institutions in the South, according to U.S. News and World Report's ''America's Best Colleges 2003.'' Under his guidance, Claflin University has increased enrollment by 60 percent, added a number of new academic majors to include mass communications, black studies, early childhood education, biochemistry, biotechnology, bioinformatics and the masters of business administration, achieved national accreditation for business administration and teacher education, and transformed the campus through the construction of new facilities, such as the Living and Learning Center and Legacy Plaza, and the restoration of many of its historic buildings.

I congratulate Dr. Tisdale on his remarkable and noteworthy achievements. May you and Claflin enjoy continued success for another 10 years and beyond.•

HONORING CAPTAIN CHRIS CHRISTOPHER

• Ms. LANDRIEU. Mr. President, I speak today to honor the service of Captain Chris Christopher, who is currently the Deputy Director for Future Operations, Communications and Business Initiatives at NMCI. Captain Christopher comes to this position after nearly 20 years of distinguished service to the Navy in the fields of aviation, public affairs and intelligence.

Captain Christopher has spent most of his life in New Orleans, and he has made a wonderful home there with his wife Penny and their two daughters. He received undergraduate and graduate degrees from the University of New Orleans, and his work with NMCI still brings him back to the UNO campus. Though he is now stationed in Virginia, his heart and family remain in New Orleans. As a Louisiana Senator, I like that!

Captain Christopher's work at NMCI has been truly outstanding. The Navy Marine Corps Intranet is a progressive and comprehensive project with an ultimate goal to transform the Department of the Navy's computer and information networks in a way that increases combat readiness and effectiveness. NMCI will revolutionize command and control efficiencies within the Navy, and between the services, to ensure that our forces are operating in unison. This will save American lives, increase combat readiness and effectiveness, and, ultimately, make us stronger. Under Captain Christopher's leadership, many of these goals have been brought closer to reality.

I once again want to thank my friend, Captain Chris Christopher, for his efforts on America's behalf. Future generations of Sailors and Marines will no doubt reap the benefits of his labor and America will be safer as a result. I am proud of your 'Louisiana-bred' success Chris, and I wish you well in your future endeavors.•

COMMENDATION FOR THE LEGACY OF LOUISIANA'S LONGEST MARRIED COUPLE

• Ms. LANDRIEU. Mr. President, today I wish to recognize George and Germaine Briant as Louisiana's longest married couple. George and Germaine Briant of Hammond, LA, were married over eighty years ago on July 20, 1921. The couple currently lives at Sunrise of Live Oak Village in Hammond where their affectionate displays of kissing, hugging, and dancing, regularly prove a true testament of their love. As the residents of Hammond would tell you, George never fails to sing ''Let Me Call You Sweetheart'' to Germaine, at every opportunity.

The Briants contributions to our Nation go beyond their loving example. George served in World War I and was awarded many medals, including the Purple Heart and the French Legion of

Honor, for his courageous and exceptional service to his country. The Briants only son, George H. Briant, a World War II pilot, gave his life for his country. Although the lives of George and Germaine Briant tell tales of patriotism, valor, and loss, the most salient characteristics of their marriage are commitment, loyalty, selflessness, and unconditional love.

I am proud to announce that at a time when people may need shining examples of self-sacrifice and a reminder of the responsibility involved in a commitment to family, George and Germaine Briant offer a portrait of a genuine marriage that has fidelity and trust at its roots. I know that my colleagues here in the United States Senate join me today in congratulating this exceptional couple who have shown the strength of a marriage bond that has only deepened with time.●

RECOGNIZING THE ACCOMPLISHMENTS OF THE ARKANSAS EASTMAN FACILITY

● Mr. PRYOR. Mr. President, I am pleased to have the opportunity to bring to the attention of the Senate very good news about the work of some of my constituents. The Arkansas Eastman facility of Brock Service Painting Company, located in Batesville, AR, has been recognized by the U.S. Department of Labor, Occupational Safety and Health Administration as a ''Star'' site under OSHA's Voluntary Protection Program. The OSHA Voluntary Protection Program recognizes exemplary safety and health efforts demonstrated by company management and employees in a cooperative effort to promote safe and healthy practices in the work environment.

As you can imagine, I am extremely proud of the accomplishments of these Arkansas workers and their managers. The significance of their achievement is underscored when you take into account that since 1982, out of 6.2 million potential sites, only 1,041 sites have been recognized for their efforts in the Voluntary Protection Program. Moreover, only 20 contractors have been selected to receive the prestigious ''Star'' award.

Not only have employees of the Arkansas Eastman facility maintained a safe work environment and adhered to safe work practices, but they also have consistently exceeded the regulatory requirements established by OSHA. According to the Bureau of Labor Statistics, sites participating in the Voluntary Protection Program have overall lost-workday, and injury and illness rates 60 percent below their industries' averages.

The dedication and hard work of these employees are credits to themselves, their company, their family and neighbors in Batesville, and the people of Arkansas. I am happy to recognize their achievements and to salute this notable accomplishment here in the U.S. Senate.●

HONORING LT. WILLIAM P. KERBY AND OTHER WWII VETERANS

● Mr. CRAPO. Mr. President, I am in anticipation of a special event in my home State of Idaho. On Sunday, June 20, the Ashley Inn in Cascade, ID will dedicate Kerby Gardens on their property. For those in Idaho, particularly those in Valley County, memorializing Lt. William Paul Kerby is an important occasion that represents a man, and a generation.

Lt. William Paul Kerby deserves America's appreciation. As Valley County's first serviceman to lose his life in World War II, he displayed the selfless sacrifice of a true American. It is his dedication that Kerby Gardens hopes to honor—a spirit of sacrifice that has defined our country and the State of Idaho since its beginning and continues to do so today.

Lt. Kerby was one of over 1,700 Idahoans who never returned from the battlefield in that great and terrible war. It is to these men that we owe our freedom today. There is still no other event in modern history that so transformed our world as did the Second World War. It brought out the best in our Nation and proved the courage of an entire generation, one that has been called ''The Great Generation.'' It is the courage and sacrifice of those veterans, men including Lt. William Kerby, that this garden remembers and honors.

In commemorating the dedication of Kerby Gardens, I would like to recognize, honor and thank Lt. Kerby and all of Idaho's veterans for their sacrifices. In World War II, as in other conflicts, America's servicemen and women have demonstrated the values and ideals our country holds dear. For their successes and their sacrifices, we are eternally grateful.●

CONGRATULATIONS TO VICE ADMIRAL MICHAEL COWAN, U.S. NAVY

● Mr. CAMPBELL. Mr. President, I wish today to pay tribute to a great American, patriot, Naval Officer, and fellow Coloradoan, Vice Admiral Michael Cowan. This summer, Admiral Cowan will retire from the United States Navy after 32 years of distinguished leadership, selfless service, and tireless commitment to our Navy and Nation.

Admiral Cowan became the 34th Surgeon General of the Navy and Chief, Bureau of Medicine and Surgery on Aug. 10, 2001. Raised in Fort Morgan, CO, he attended the University of Colorado and received his M.D. degree from Washington University, St. Louis. Postgraduate training began at Temple University and after entering the Navy, was completed at the National Naval Medical Center, Bethesda. He is certified in Internal Medicine, and as a Physician Executive of the American College of Physician Executives.

Admiral Cowan began his Navy career as a General Medical Officer at Camp Lejeune, North Carolina in 1971, and was promoted to flag rank while serving as Commanding Officer at the same hospital 25 years later. In between, he has held a wide variety of clinical, research, operational, staff and leadership positions, including Deputy Executive Director, Chief Operating Officer, and Program Executive Officer, TRICARE Management Activity, Assistant Secretary of Defense, Health Affairs; Chief of Staff, Assistant Secretary of Defense, Health Affairs; Surgeon to the Joint Staff; Commander, Defense Medical Readiness Training Institute; Commanding Officer, Naval Hospital Camp Lejeune; Task Force Surgeon, Operation Restore Hope, Somalia Senior Research Fellow, National Defense University; Vice Chairman, Department of Military Medicine, Uniformed Services University of the Health Sciences; Chief of Internal Medicine, U.S. Naval Hospital Rota, Spain.

Throughout his career he has contributed to important advances in the military health system to include: the Military Training Network for Resuscitative Medicine, MTN; the National Disaster Medical System, NDMS; DMRTI; and the integration Force Health Protection Doctrine into Joint Staff Joint Vision 2020. At TRICARE Management Activity, he played a major leadership role in the implementation of the National Defense Authorization Act of 2001, the TRICARE e-health initiative and The National Enrollment Database. Recognized by the Department of Defense, Members of Congress, and the Nation's health care experts as a physician and leader always on the cutting edge of innovation and vision.

Admiral Cowan leaves a legacy of distinction and accomplishments in which he should take great pride and satisfaction. During his tenure as the Navy Surgeon General, he has met every challenge posed including responding to the attacks of September 11, 2001, supporting the response to the anthrax attack on the Hart Senate Office Building in October 2001, Operation Enduring Freedom, Operation Iraqi Freedom, the ongoing Global War on Terror, and most recently the ricin attack on the Dirksen Senate Building.

Mr. President, I ask to extend best wishes on behalf of the U.S. Senate, for continued happiness and success to Admiral Cowan and his lovely wife Linda as they begin the next chapter of their lives, with the thanks and gratitude of a grateful nation for Admiral Cowan's loyal and dedicated service.●

COLONEL EDGAR F. WOODWARD, JR.

● Mr. CRAPO. Mr. President, it is with tremendous gratitude today that I wish to honor Colonel Edgar F. Woodward Jr. for his dedicated service to our country in the Armed Services. Too often we forget the extreme sacrifice involved in keeping our great Nation

free. Colonel Woodward's character reflects this sacrifice and the steadfast resolve so many of our veterans maintain in the preservation of freedom. Allow me a moment to tell you about him.

Colonel Woodward joined the United States Air Force in 1941. Shortly after enlisting, he was called to arms in the European campaign of World War II. Colonel Woodward quickly earned the rank of captain flying B–17 bombers. During his 13th mission flying under the 100th Bomb Group, he was shot down and injured. He received a Purple Heart for these actions.

Colonel Woodward's relentless service to our country does not end here. In addition to his contributions in World War II, Colonel Woodward continued to serve through times of peril. From 1952–1954 he flew in the Korean war. From 1966–1967, he served in intelligence and strategic planning during the Vietnam war. In 1971, after 30 years of service, Edgar F. Woodward Jr. retired as a United States Air Force colonel.

I commend Colonel Woodward for his diligent service. His decision to serve our country places him in my highest esteem, and today I honor him.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE RISK OF NUCLEAR PROLIFERATION CREATED BY THE ACCUMULATION OF WEAPONS-USABLE FISSILE MATERIAL IN THE TERRITORY OF THE RUSSIAN FEDERATION—PM 87

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation is to continue beyond June 21, 2004. The most recent notice continuing this emergency was published in the *Federal Register* on June 12, 2003 (68 Fed. Reg. 35149).

It remains a major national security goal of the United States to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmament agreements is dedicated to peaceful uses, subject to transparency measures, and protected from diversion to activities of proliferation concern. The accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency declared with respect to the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation and maintain in force these emergency authorities to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 16, 2004.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7951. A communication from the Secretary of Energy, transmitting, pursuant to law, the report Department of Energy's Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7952. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Review of the Financial Operations of the Village Learning Center Public Charter School''; to the Committee on Governmental Affairs.

EC–7953. A communication from the Chairman, Tennessee Valley Authority, transmitting, pursuant to law, the Authority's report required by the Government in Sunshine Act for Calendar Year 2003; to the Committee on Governmental Affairs.

EC–7954. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Department of the Interior's Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7955. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7956. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–438, ''American College of Cardiology and the American College of Cardiology Foundation Real Property Tax Exemption Act of 2004''; to the Committee on Governmental Affairs.

EC–7957. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–431, ''Lot 878, Square 456 Tax Exemption Clarification Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–7958. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–432, ''Use of Fraudulent Temporary Identification Tags and Automobile Forfeiture Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7959. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–434, ''Teacher Retirement Incentive Program Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7960. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–433, ''Honoraria Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7961. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–428, ''National Capital Medical Center Memorandum of Understanding Approval Act of 2004''; to the Committee on Governmental Affairs.

EC–7962. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–429, ''Lower Income, Long-Term Homeowner Credit Administration Temporary Act of 2004''; to the Committee on Governmental Affairs.

EC–7963. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–425, ''Sibley Memorial Hospital Equitable Real Property Tax Relief Act of 2004''; to the Committee on Governmental Affairs.

EC–7964. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–426, ''Deed Recordation Tax and Related Amendments Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7965. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–427, ''Office of Administrative Hearings Independence Preservation Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7966. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–435, ''Retail Incentive Act of 2004''; to the Committee on Governmental Affairs.

EC–7967. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–7968. A communication from the Assistant Secretary for Administration and Management, Competitive Sourcing Official, Department of Labor, transmitting, pursuant to law, a report relative to the Department's competitive sourcing efforts; to the Committee on Health, Education, Labor, and Pensions.

EC–7969. A communication from the Director, Regulations Policy, and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Anitidiarrheal Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph'' (RIN0910–AC82) received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7970. A communication from the Director, Regulations Policy, and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Extension of Comment Period'' (Doc. No. 2002N–0278) received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7971. A communication from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting, pursuant to law, a report relative to the Department's competitive sourcing activities; to the Committee on Health, Education, Labor, and Pensions.

EC–7972. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7973. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Department of Labor Acquisition Regulation'' (RIN1291–AA34) received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7974. A communication from the Director, Regulations, Policy, and Management, Staff, Food and Drug Administration, Department of Health and Human Services transmitting, pursuant to law, the report of a rule entitled ''Dental Devices; Reclassification of Root-Form Endosseous Dental Implants and Endosseous Dental Implant Abutments'' (Doc. No. 2002N–0114) received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7975. A communication from the Director, Regulations, Policy, and Management, Staff, Food and Drug Administration, Department of Health and Human Services transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Immunology and Microbiology Devices; Classification of the Immunomagnetic Circulating Cancer Cell Selection Enumeration System'' (Doc. No. 2004P–0126) received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7976. A communication from the Director, Regulations, Policy, and Management, Staff, Food and Drug Administration, Department of Health and Human Services transmitting, pursuant to law, the report of a rule entitled ''Food and Color Additives and Generally Recognized as Safe Substances; Technical Amendment'' (Doc. No. 2004N–0076) received on June 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7977. A communication from the Regulations Coordinator, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Administrative Detention of Food for Human or Animal Consumption Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Final Rule'' (RIN0910–AC38) received on June 7, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7978. A communication from the Assistant General Counsel for Regulations, Office of Safe and Drug-Free Schools, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priority and Other Application Requirements under the Emergency Response Crisis Management Grant Program'' (RIN1865–ZA01) received on June 7, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7979. A communication from the Assistant General Counsel for Regulations, Office of Safe and Drug-Free Schools, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priority, Selection Criteria, Requirements and Definitions Under the Safe Schools/Health Students Program'' (RIN1865–ZA02) received on June 7, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7980. A communication from the Assistant General Counsel for Regulations, Office of Safe and Drug-Free Schools, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priorities, Requirements, and Selection Criteria Under the Mentoring Program'' (RIN1865–ZA00) received on June 7, 2004; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Suedeen G. Kelly, of New Mexico, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2009.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2523. A bill to exempt the Great Plains Region and Rocky Mountain Region of the Bureau of Indian Affairs from trust reform reorganization pending the submission of Agency-specific reorganization plans; to the Committee on Indian Affairs.

By Mr. GRAHAM of Florida:

S. 2524. A bill to amend title 38, United States Code, to improve the provision of health care, rehabilitation, and related services to veterans suffering from trauma relating to a blast injury, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself and Mr. SCHUMER):

S. 2525. A bill to establish regional dairy marketing areas to stabilize the price of milk and support the income of dairy producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOND (for himself, Mr. KENNEDY, Mr. DEWINE, and Mrs. MURRAY):

S. 2526. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 2527. A bill to suspend the duty on certain educational toys and devices; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, and Mr. CORZINE):

S. 2528. A bill to restore civil liberties under the First Amendment, the Immigration and Nationality Act, and the Foreign Intelligence Surveillance Act, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. FRIST, Mr. DASCHLE, Mr. LUGAR, Mr. LIEBERMAN, Mr. SANTORUM, Mrs. MURRAY, Mr. MCCAIN, Mr. SUNUNU, Mr. FITZGERALD, Mr. DEWINE, Mr. LAUTENBERG, Ms. CANTWELL, Mr. INHOFE, and Mr. CORZINE):

S. 2529. A bill to extend and modify the trade benefits under the African Growth and Opportunity Act; to the Committee on Finance.

By Mr. DAYTON:

S. 2530. A bill to amend part D of title XVIII of the Social Security Act to permit medicare beneficiaries to purchase more than one prescription drug discount card and to receive a refund of the enrollment fee if the prices of prescription drugs change or the formulary used by the card sponsor changes during the life of the program; to the Committee on Finance.

By Mr. WYDEN:

S. 2531. A bill to assist displaced American workers during a jobless recovery, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN (for himself and Mr. REID):

S. 2532. A bill to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. GRAHAM of Florida, Mr. GRASSLEY, Mr. DASCHLE, Mr. WARNER, Mrs. CLINTON, Ms. COLLINS, Mr. KENNEDY, Mr. ALEXANDER, Mr. BREAUX, Mr. DEWINE, Mr. LAUTENBERG, Mr. ROBERTS, Mr. CORZINE, Mr. TALENT, Mr. SARBANES, Mr. ALLEN, Mr. DURBIN, Mr. HAGEL, Mr. KERRY, Mrs. DOLE, Mr. CARPER, Mr. SMITH, Mr. NELSON of Nebraska, Mr. COLEMAN, Mr. EDWARDS, Ms. MURKOWSKI, Mr. DAYTON, Mr. DOMENICI, Mrs. MURRAY, Mr. HATCH, Mr. SCHUMER, Mr. HOLLINGS, Mr. BAYH, Mr. ROCKEFELLER, Ms. LANDRIEU, Mr. DODD, Mrs. LINCOLN, Ms. STABENOW, Mr. WYDEN, Mr. JOHNSON, and Mr. HARKIN):

S. 2533. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Finance.

By Mr. GRAHAM of Florida:

S. 2534. A bill to amend title 38, United States Code, to extend and enhance benefits under the Montgomery GI Bill, to improve housing benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Res. 380. A resolution honoring the Detroit Pistons on winning the National Basketball Association Championship on June 15, 2004; considered and agreed to.

By Mr. NELSON of Florida (for himself, Mr. MILLER, Mr. CHAMBLISS, Mr. GRAHAM of Florida, and Mr. LEVIN):

S. Res. 381. A resolution recognizing the accomplishments and significant contributions of Ray Charles to the world of music; considered and agreed to.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUYE, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1172

At the request of Mr. FRIST, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1172, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from California (Mrs. BOXER) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1411

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1629

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1629, a bill to improve the palliative and end-of-life care provided to children with life-threatening conditions, and for other purposes.

S. 1900

At the request of Mr. LUGAR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1996

At the request of Mr. DASCHLE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1996, a bill to enhance and provide to the Oglada Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

S. 2133

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2133, a bill to name the Department of Veterans Affairs medical center in the Bronx, New York, as the James J. Peters Department of Veterans Affairs Medical Center.

S. 2174

At the request of Mr. BUNNING, the names of the Senator from California (Mrs. BOXER) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2174, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 2236

At the request of Ms. CANTWELL, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2236, a bill to enhance the reliability of the electric system.

S. 2270

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2324

At the request of Mr. CHAMBLISS, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2324, a bill to extend the deadline on the use of technology standards for the passports of visa waiver participants.

S. 2338

At the request of Mr. BOND, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2413

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2413, a bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

S. 2419

At the request of Mr. PRYOR, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2419, a bill to amend the Internal Revenue Code of 1986 to provide additional relief for members of the Armed Forces and their families.

S. 2435

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2435, a bill to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes.

S. 2474

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 2474, a bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

S. 2508

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2508, a bill to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

S. 2522

At the request of Mr. CORZINE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2522, a bill to amend title 38, United States Code, to increase the

maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for other purposes.

S.J. RES. 30

At the request of Mr. ALLARD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S.J. Res. 30, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S.J. RES. 33

At the request of Mr. BROWNBACK, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S.J. Res. 33, a joint resolution expressing support for freedom in Hong Kong.

S.J. RES. 37

At the request of Mr. BROWNBACK, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S.J. Res. 37, a bill to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 74

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 74, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued as a testimonial to the Nation's tireless commitment to reuniting America's missing children with their families, and to honor the memories of those children who were victims of abduction and murder.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 379

At the request of Mr. BROWNBACK, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Kansas (Mr. ROBERTS), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. Res. 379, a resolution protecting, promoting, and celebrating fatherhood.

AMENDMENT NO. 3264

At the request of Mr. PRYOR, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Texas (Mr. CORNYN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 3264 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3292

At the request of Mr. DAYTON, his name was added as a cosponsor of amendment No. 3292 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3297

At the request of Mr. REID, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. DASCHLE) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 3297 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3301

At the request of Mr. NELSON of Nebraska, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 3301 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3313

At the request of Mr. DODD, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 3313 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3323

At the request of Mr. FITZGERALD, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 3323 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3346

At the request of Mr. BINGAMAN, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of amendment No. 3346 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3386

At the request of Mr. DURBIN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from California (Mrs. FEINSTEIN), the Senator from Vermont (Mr. LEAHY), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of amendment No. 3386 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3386 proposed to S. 2400, supra.

AMENDMENT NO. 3392

At the request of Mr. BINGAMAN, the names of the Senator from Oregon (Mr. SMITH), the Senator from New Jersey (Mr. CORZINE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 3392 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3436

At the request of Mr. BUNNING, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Massachusetts (Mr. KENNEDY) were withdrawn as cosponsors of amendment No. 3436 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department

of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3438

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 3438 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

At the request of Mr. BUNNING, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Missouri (Mr. BOND), the Senator from California (Mrs. FEINSTEIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3438 proposed to S. 2400, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2523. A bill to exempt the Great Plains Region and Rocky Mountain Region of the Bureau of Indian Affairs from trust reform reorganization pending the submission of agency-specific reorganization plans; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, today Senator JOHNSON and I are introducing a bill that reflects the concerns of tribal leaders about the lack of progress on trust management reform and their dissatisfaction with the Department of the Interior's reorganization plan to deal with it. It offers an alternative to the Department's approach that tribal chairmen in the Great Plains and Rocky Mountain regions believe will better serve their members.

Trust reform is a particularly vexing issue that has confounded Federal policymakers and frustrated Native Americans for years. But the bottom line is that when the United States Government divided Indian lands in 1887, it made a commitment, through solemn treaty obligations, to hold those lands in trust, to manage them wisely, and to give any income from the sale or lease of the land to its Indian owners. It has never fulfilled that promise.

The Indian trust has been so badly mismanaged, for so long, by Administrations of both political parties, that no one today has any idea how much money should even be in the trust—let alone, how much is owed to individual account holders and to tribes, and for what. Meanwhile, too many individual and tribal community needs go unmet in Indian Country because of the lack of resources. That is the contradiction that simply cannot be allowed to continue.

I know that the Interior Department has gone to great efforts to reform its internal structure to get a handle on the administration of the Indian trust fund. And I appreciate that Interior officials believe that their reorganization plan has been shaped, at least in part, by ''listening sessions'' it held in Indian Country. Yet, the fact remains that tribal leaders around the country do not accept the premise that those meetings represented true consultation, and they do not accept the Department's reorganization plan as a legitimate response to mismanagement of the Indian trust. A number of tribal leaders have told me that the Department's ''listening sessions'' were hardly that, but could more accurately be described as a notification of how the Department would proceed.

Tribal leaders in my State believe strongly that the Department's reorganization plan moves in the wrong direction. Instead of integrating the trust and ''non-trust'' functions of the Department, it separates those functions even further. They also believe the plan ignores the unique character of each region's challenges. The Great Plains Region, for example, has more Individual Indian Money Account holders than any other region and holds 33 percent of the nation's tribal trust assets.

I acknowledge that this is a difficult problem and that some in the Administration sincerely desire to solve the trust management problem in a way that ensures that stakeholders receive what is due them in a timely manner. I also greatly appreciate the attention devoted to this matter. However, I do believe some of that attention has been misdirected. And, given the recent history of the trust reform debate, I have no credible answer to tribal leaders' lament that the Department appears more interested in undercutting the Cobell v. Norton lawsuit than in considering the opinion of tribes in South Dakota or the rest of Indian Country.

Since the Department formally unveiled its reorganization proposal earlier last year, numerous questions have been raised about exactly how this reorganization, which is currently being advanced administratively, will improve the present trust fund management and accounting procedures.

What are the role and responsibilities of the Special Trustee's trust officers who will be dispatched throughout Indian Country, and how will these positions relate to the local and regional BIA offices? Is this a duplication of services?

Who has oversight over these positions, and what accountability mechanism is in place to monitor their performance? What are the lines of authority?

Will Indian preference apply to any new positions that are created by the reorganization?

Why is the reorganization effort affecting the Office of Indian Education Programs when the court mandate affects only trust fund management reform? Does the plan violate the BIA amendments to the Elementary and Secondary Education Act reauthorization?

The list of questions is long, and tribal leaders and their constituents deserve answers. Those answers cannot be gleaned from the 18 pages of organizational charts the Department has provided as a rationale for its plan to reorganize the BIA and the Office of the Special Trustee.

This past February tribal leaders from nearly every Indian Nation in America traveled to Washington for a meeting of the National Congress of American Indians to discuss a variety of issues, including trust reform. They expressed unanimous opposition to the Department of Interior's reorganization efforts, and their urgent plea to Congress was that the federal government work with Native people to find an honorable and equitable solution to the Indian trust fund dispute.

In March, in an appearance before the Senate Indian Affairs Committee, Tex Hall, Chairman of the Three Affiliated Tribes of Fort Berthold and President of the National Congress of American Indians, testified that tribal leaders do not believe that their views are reflected in the Department's trust reorganization plan. And the Chairman of the Lower Brule Sioux Tribe, Michael Jandreau, a member of the BIA-Tribal Task Force on trust reform, told the Committee that ''meaningful involvement [of] and input from tribal leadership'' and the failure by the federal government to recognize ''obvious treaty obligations'' are contributing to the inability to reach consensus on trust reform.

This disagreement between Indian Country and Washington runs deep and cannot be solved by Interior Department officials simply re-drawing lines on organizational charts. The search for resolution must include real, meaningful, and ongoing consultation between Department officials and the tribes and tribal leaders. After all, we are talking about Indian people's money.

At the March Committee hearing, Harold Frazier, testifying in his capacities as Chairman of the Cheyenne River Sioux Tribe and as Chairman of the Great Plains Tribal Chairman's Association, offered both a critique of the Department's reorganization plan and an alternative to it. He emphasized that a majority of Indian tribes opposed the reorganization, not just because it was implemented without ''meaningful tribal consultation,'' but also because ''a one-size-fits-all approach to trust management reform is certain to fail.'' While acknowledging that some aspects of reform, such as land consolidation and improved record-keeping, are better managed at the national level, Chairman Frazier pointed out that basic services provided at the agency level are the key to the most efficient utilization of trust assets and that these resource decisions are best made at the local level

so they may be adapted to serve tribal beneficiaries' unique needs. And he offered the Great Plains Regional Proposal for Trust Reform as an alternative to the Department's reorganization plan.

Senator JOHNSON and I believe that Chairman Frazier has made a constructive contribution to breaking the trust impasse, and the bill we are introducing today codifies the Great Plains Regional Proposal for Trust Reform, as expanded by the inclusion of the Rocky Mountain Regional Tribes. It is based on the principle that differences among tribes in population, employment, revenue base, and even geographic location effect the type of trust reform suitable for each area, and it has precedent in a provision of the FY 2004 Interior Appropriations bill, Section 139, that exempted certain self-governance tribes from the Interior reorganization plan.

Our proposal exempts the Great Plains and Rocky Mountain tribes from the Department of the Interior's trust reform reorganization, excluding current efforts to reform Indian probate and encourage land consolidation, thereby precluding the Department from reorganizing the BIA at the agency level. It also stipulates that any funds appropriated to accomplish trust reform at the agency level within the Great Plains and Rocky Mountain Regions can be expended only under plans developed by local tribes in cooperation with, and with the approval of, the Department of the Interior. And it authorizes $200,000 for the Great Plains Region and $200,000 for the Rocky Mountain Region to be used for the development of agency-specific reorganization plans.

The legislation Senator JOHNSON and I are introducing today is not intended to end the trust reform debate. We still do not have an historical accounting of trust income; we still do not know if certain records exist; and we still do not know how much the United States of America owes to Indian people and to the Tribes. Neither is the legislation intended to limit other regions searching for their own solutions; to the contrary, we and the tribes of the Great Plains and Rocky Mountain regions respect other regions' rights to develop proposals that meet their own unique needs. But we do hope our proposal will help refocus the debate in a more constructive, substantive, cost-effective manner, acknowledging that the tribes know what is best for them and should be consulted—in a meaningful way—and play a key role in this process.

The tribes understand that the Interior and Treasury Departments, the BIA, and the Special Trustee for American Indians must be their allies in the search for a solution. But friction over reorganization has diverted attention from the more fundamental challenge of providing a full and fair accounting to Indian people, and ultimately paying the money that is owed to them and the tribes.

Now that the Department has been given authorization to proceed administratively with its reorganization plan, I hope the Department will submit to Congress a legislative proposal on how to address the underlying, substantive problem that we have been wrestling with for far too long. I also hope the Department will embrace the pilot program Senator JOHNSON and I are proposing today, with the support of the Great Plains and Rocky Mountain Tribal Chairmen's Associations.

In closing, I think it is extremely important to reflect on two central facts about the Indian trust debate as we consider the proposed reorganization of the BIA and the OST, and the Great Plains and Rocky Mountains Tribal Chairmen's Associations' ideas for localizing trust reform.

First, residents of Indian Country have been victimized for generations by persistent mismanagement of trust assets by the federal government. Far too many families for far too long have been denied trust assets to which they are entitled because of Federal mismanagement. And this situation has adversely affected their quality of life.

Second, frustration with the Federal Government's failure to come to grips with this problem has not only led to litigation (Cobell v. Norton), it has also solidified the tribes' determination to be part of the solution to the problem. Effective trust management reform will remain an elusive goal if the tribes are not full participants in this exercise.

We need to recognize the human dimension and consequences of trust mismanagement, and we need to accept that tribal leaders must be equal partners in its reform. The bottom line is that the tribes do not have the resources they need to adequately address the full range of socio-economic challenges they face. In the case of trust reform, the issue is not simply boxes on an organizational chart, but lives that literally hang in the balance.

Yesterday I met with Chairman Frazier, Chairman Jandreau, and Oglala Sioux Tribal President John Yellow Bird Steele. Their frustrations with the Department's reorganization proposal could be summed up with the comments made by one chairman and echoed by the other two: ''They left us out of the equation. We have many of the records, and we know what adjustments need to be made at the agency level to address our local needs. Whether it's historical accounting or reorganization, we have to be part of the solution.''

It's a concept so simple that it should go without saying, but the Administration has not adhered to it. But we still have a chance to turn that around. The tribes of the Dakotas, Nebraska, Montana, and Wyoming have stepped up to the plate. They aren't just complaining about the Administration's proposal; they're offering their own. They've developed regional proposals to fit their unique regional needs. We should respect their judgment, and the judgment of other regions that will undoubtedly follow with their own proposals.

The history of trust management has been a travesty, and, without a concerted and open-minded effort to address the issue, the future will not be any better. The United States has a fiduciary responsibility to Indian Country based on numerous treaty obligations. We must satisfy our obligations. We must work together to craft a solution to the underlying trust problem. Let's start by granting the Great Plains and Rocky Mountain Regions greater autonomy to fashion their own trust solutions.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICABILITY OF TRUST REFORM REORGANIZATION TO THE GREAT PLAINS REGION AND ROCKY MOUNTAINS REGION OF THE BUREAU OF INDIAN AFFAIRS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''Agency'' means an Agency of the Bureau of Indian Affairs within a Region.

(2) REGION.—The term ''Region'' means each of the Great Plains Region and the Rocky Mountain Region of the Bureau of Indian Affairs.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) NO REORGANIZATION.—Notwithstanding any implementation of the trust reorganization plan for the Bureau of Indian Affairs in fiscal year 2004 or 2005, the Secretary shall not reorganize the Bureau at the Agency level in a Region except with respect to the reform of probate procedure and efforts to encourage land consolidation.

(c) TRUST MANAGEMENT INFRASTRUCTURE.—The Secretary shall not impose trust management infrastructure reforms on, or alter, the existing trust resource management system of an Agency unless the reforms are expressly agreed to by the Indian tribe covered by the Agency.

(d) AGENCY PLANS.—

(1) IN GENERAL.—Any funds made available to accomplish trust reform at the Agency level shall be expended in accordance with a plan developed by the Indian tribe covered by the Agency, in cooperation with the Secretary and approved by Act of Congress.

(2) TIMING.—An Agency shall submit the Agency plan to the Secretary not later than 180 days after the date on which funds are made available under subsection (f).

(e) REPORT.—

(1) IN GENERAL.—After submission to the Secretary of an Agency plan under subsection (d)(2), the Secretary shall—

(A) prepare a report that includes findings and recommendations of the Secretary concerning the Agency plan; and

(B) provide the Indian tribe covered by the Agency 60 days in which to submit comments regarding the findings and recommendations of the Secretary.

(2) SUBMISSION TO CONGRESS.—After receiving comments of the Indian tribe under paragraph (1)(B), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Appropriations and the Committee on Resources of the House of Representatives—

(A) the Agency plan;

(B) the report of the Secretary; and
(C) the comments of the Indian tribe.
(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $200,000 for each Region, to be made available to the Agencies for use in developing an Agency plan under subsection (d).

By Mr. GRAHAM of Florida:

S. 2524. A bill to amend title 38, United States Code, to improve the provision of health care, rehabilitation, and related services to veterans suffering from trauma relating to a blast injury, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM. Mr. President, today I introduce legislation to establish a Department of Veterans Affairs War-Related Blast Injury Center. The need for this type of research and treatment facility has become especially pressing in light of the staggering number of veterans returning from the battles raging abroad.

Blasts from such weapons as artillery, mortar shells, and roadside bombs—improvised explosives that blow debris such as broken glass, nails, and gravel upward into the face—have become the most common mechanism of injury in modern warfare. The resulting injuries include those to the lungs, inner ear, limbs, and, quite commonly, the head. In addition to the serious physical wounds, deep psychological wounds also result, including post-traumatic stress disorder.

Despite the fact that injuries from explosive devices currently make up the majority of combat casualties and the most severe, there has never been an established medical program to evaluate, treat, and track the short- and long-term consequences of these specific injuries. This bill is an important first step toward correcting this deficiency. It establishes at least one War-Related Blast Injury Center within VA that would provide comprehensive and specialized rehabilitation programs, as well as targeted education and outreach programs and research initiatives.

The Center would be formed from a collaboration between the Department of Veterans Affairs, (VA) and the Department of Defense, promoting cooperation between the two agencies to reach their respective goals regarding the care of our military personnel. One of the Center's main purposes would be to fill in the gap that now exists in the evidence base for treating victims of blast injuries. Through its specialized evaluation and treatment of the polytrauma that results from blast injuries, the Center would facilitate the identification of trends in those suffering from this trauma and go a long way in determining innovative, more effective treatment approaches.

In addition to its comprehensive rehabilitation program and the conduct of research, the Center will also provide education and training to health care personnel across the care continuum, including first responders, acute-care providers, and rehabilitation staff. It will also develop improved models and systems for the furnishing of blast injury services by VA.

While my legislation does not designate a site for the Center, I mention with pride the work being done at the Tampa VA Medical Center (VAMC) in Florida. The Tampa VAMC has an exceptional Physical Medicine and Rehabilitation (PM&R) Service that serves the largest number of veterans in the Nation. The Spinal Cord Injury, Amputee, and Traumatic Brain Injury Programs are not only VA's largest, but they have also been recognized as providing the highest quality of care in VA by their designation as Clinical Centers of Excellence. The PM&R Service utilizes an interdisciplinary team for patient care that includes physicians, therapists, audiologists, neuropsychologists, and social workers. Among them, this wide-ranging medical staff has access to a broad spectrum of medical and support services to best treat their patients.

In addition, this outstanding hospital serves as one of seven lead centers comprising the Defense/Veterans Brain Injury Center, a cooperative treatment and research program in traumatic brain injury. It also established a Gulf War Program in 1999 and in the past year created a Blast Injury Program. For all these reasons, the Tampa VAMC would serve as an excellent site for a War-Related Blast Injury Center.

An April 2004 article in The Washington Post detailed the experiences of combat surgeons in Iraq currently caring for the heroic men and women serving there. These doctors described their experiences treating an overwhelming flow of soldiers with wounds that probably would have been fatal in previous wars. Increasingly, these wounds involve severe damage to the head and eyes and often leave soldiers brain damaged, blind, or both. This article paints a clear picture of the injuries our soldiers in Iraq are subjected to and must deal with upon their return. I ask unanimous consent that the text of The Washington Post article be printed in the RECORD following this statement.

In addition, a recent update by VA's Physical Medicine and Rehabilitation National Program Office revealed over a 60 percent increase in rehabilitation patients in 2003 compared to 2002. This means that there were 215 additional brain injury patients and 423 more amputee patients. This sizable increase speaks to the great need for the War-Related Blast Injury Center.

This past April, more than 900 soldiers and Marines were wounded in Iraq, more than twice the number wounded in October of last year, the previous high. On May 2, in a tragic event that hit close to home, 5 reservists from the Jacksonville-based Seabee battalion were killed in a mortar attack in Iraq and an additional 30 suffered injuries resulting from the blast. The Jacksonville-based Seabees were in Iraq to do humanitarian work such as fixing electrical and water systems and sewage problems. These brave men epitomized American courage and selflessness. A War-Related Blast Injury Center would serve to care for servicemembers like the Seabees who suffer this type of horrific wound.

After all that these courageous, selfless soldiers sacrifice and suffer in battle, we owe them a place where they may receive the treatment necessary to mend their wounds, both physical and mental.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, April 27, 2004]

THE LASTING WOUNDS OF WAR; ROADSIDE BOMBS HAVE DEVASTATED TROOPS AND DOCTORS WHO TREAT THEM

(By Karl Vick)

The soldiers were lifted into the helicopters under a moonless sky, their bandaged heads grossly swollen by trauma, their forms silhouetted by the glow from the row of medical monitors laid out across their bodies, from ankle to neck.

An orange screen atop the feet registered blood pressure and heart rate. The blue screen at the knees announced the level of postoperative pressure on the brain. On the stomach, a small gray readout recorded the level of medicine pumping into the body. And the slender plastic box atop the chest signaled that a respirator still breathed for the lungs under it.

At the door to the busiest hospital in Iraq, a wiry doctor bent over the worst-looking case, an Army gunner with coarse stitches holding his scalp together and a bolt protruding from the top of his head. Lt. Col. Jeff Poffenbarger checked a number on the blue screen, announced it dangerously high and quickly pushed a clear liquid through a syringe into the gunner's bloodstream. The number fell like a rock.

''We're just preparing for something a brain-injured person should not do two days out, which is travel to Germany,'' the neurologist said. He smiled grimly and started toward the UH–60 Black Hawk thwump-thwumping out on the helipad, waiting to spirit out of Iraq one more of the hundreds of Americans wounded here this month.

While attention remains riveted on the rising count of Americans killed in action—more than 100 so far in April—doctors at the main combat support hospital in Iraq are reeling from a stream of young soldiers with wounds so devastating that they probably would have been fatal in any previous war.

More and more in Iraq, combat surgeons say, the wounds involve severe damage to the head and eyes—injuries that leave soldiers brain damaged or blind, or both, and the doctors who see them first struggling against despair.

For months the gravest wounds have been caused by roadside bombs—improvised explosives that negate the protection of Kevlar helmets by blowing shrapnel and dirt upward into the face. In addition, firefights with guerrillas have surged recently, causing a sharp rise in gunshot wounds to the only vital area not protected by body armor.

The neurosurgeons at the 31st Combat Support Hospital measure the damage in the number of skulls they remove to get to the injured brain inside, a procedure known as a craniotomy. ''We've done more in eight

weeks than the previous neurosurgery team did in eight months,'' Poffenbarger said. ''So there's been a change in the intensity level of the war.''

Numbers tell part of the story. So far in April, more than 900 soldiers and Marines have been wounded in Iraq, more than twice the number wounded in October, the previous high. With the tally still climbing, this month's injuries account for about a quarter of the 3,864 U.S. servicemen and women listed as wounded in action since the March 2003 invasion.

About half the wounded troops have suffered injuries light enough that they were able to return to duty after treatment, according to the Pentagon.

The others arrive on stretchers at the hospitals operated by the 31st CSH. ''These injuries,'' said Lt. Col. Stephen M. Smith, executive officer of the Baghdad facility, ''are horrific.''

By design, the Baghdad hospital sees the worst. Unlike its sister hospital on a sprawling air base located in Balad, north of the capital, the staff of 300 in Baghdad includes the only ophthalmology and neurology surgical teams in Iraq, so if a victim has damage to the head, the medevac sets out for the facility here, located in the heavily fortified coalition headquarters known as the Green Zone.

Once there, doctors scramble. A patient might remain in the combat hospital for only six hours. The goal is lightning-swift, expert treatment, followed as quickly as possible by transfer to the military hospital in Landstuhl, Germany.

While waiting for what one senior officer wearily calls ''the flippin' helicopters,'' the Baghdad medical staff studies photos of wounds they used to see once or twice in a military campaign but now treat every day. And they struggle with the implications of a system that can move a wounded soldier from a booby-trapped roadside to an operating room in less than an hour.

''We're saving more people than should be saved, probably,'' Lt. Col. Robert Carroll said. ''We're saving severely injured people. Legs. Eyes. Part of the brain.''

Carroll, an eye surgeon from Waynesville, Mo., sat at his desk during a rare slow night last Wednesday and called up a digital photo on his laptop computer. The image was of a brain opened for surgery earlier that day, the skull neatly lifted away, most of the organ healthy and pink. But a thumb-sized section behind the ear was gray.

''See all that dark stuff? That's dead brain,'' he said. ''That ain't gonna regenerate. And that's not uncommon. That's really not uncommon. We do craniotomies on average, lately, of one a day.''

''We can save you,'' the surgeon said. ''You might not be what you were.''

Accurate statistics are not yet available on recovery from this new round of battlefield brain injuries, an obstacle that frustrates combat surgeons. But judging by medical literature and surgeons' experience with their own patients, ''three or four months from now 50 to 60 percent will be functional and doing things,'' said Maj. Richard Gullick.

''Functional,'' he said, means ''up and around, but with pretty significant disabilities,'' including paralysis.

The remaining 40 percent to 50 percent of patients include those whom the surgeons send to Europe, and on to the United States, with no prospect of regaining consciousness. The practice, subject to review after gathering feedback from families, assumes that loved ones will find value in holding the soldier's hand before confronting the decision to remove life support.

''I'm actually glad I'm here and not at home, tending to all the social issues with all these broken soldiers,'' Carroll said.

But the toll on the combat medical staff is itself acute, and unrelenting.

In a comprehensive Army survey of troop morale across Iraq, taken in September, the unit with the lowest spirits was the one that ran the combat hospitals until the 31st arrived in late January. The three months since then have been substantially more intense.

''We've all reached our saturation for drama trauma,'' said Maj. Greg Kidwell, head nurse in the emergency room.

On April 4, the hospital received 36 wounded in four hours. A U.S. patrol in Baghdad's Sadr City slum was ambushed at dusk, and the battle for the Shiite Muslim neighborhood lasted most of the night. The event qualified as a ''mass casualty,'' defined as more casualties than can be accommodated by the 10 trauma beds in the emergency room.

''I'd never really seen a 'mass cal' before April 4,'' said Lt. Col. John Xenos, an orthopedic surgeon from Fairfax. ''And it just kept coming and coming. I think that week we had three or four mass cals.''

The ambush heralded a wave of attacks by a Shiite militia across southern Iraq. The next morning, another front erupted when Marines cordoned off Fallujah, a restive, largely Sunni city west of Baghdad. The engagements there led to record casualties.

''Intellectually, you tell yourself you're prepared,'' said Gullick, from San Antonio. ''You do the reading. You study the slides. But being here . . . .'' His voice trailed off.

''It's just the sheer volume.''

In part, the surge in casualties reflects more frequent firefights after a year in which roadside bombings made up the bulk of attacks on U.S. forces. At the same time, insurgents began planting improvised explosive devices (IEDs) in what one officer called ''ridiculous numbers.''

The improvised bombs are extraordinarily destructive. Typically fashioned from artillery shells, they may be packed with such debris as broken glass, nails, sometimes even gravel. They're detonated by remote control as a Humvee or truck passes by, and they explode upward.

To protect against the blasts, the U.S. military has wrapped many of its vehicles in armor. When Xenos, the orthopedist, treats limbs shredded by an IED blast, it is usually ''an elbow stuck out of a window, or an arm.''

Troops wear armor as well, providing protection that Gullick called ''orders of magnitude from what we've had before. But it just shifts the injury pattern from a lot of abdominal injuries to extremity and head and face wounds.''

The Army gunner whom Poffenbarger was preparing for the flight to Germany had his skull pierced by four 155mm shells, rigged to detonate one after another in what soldiers call a ''daisy chain.'' The shrapnel took a fortunate route through his brain, however, and ''when all is said and done, he should be independent. . . . He'll have speech, cognition, vision.''

On a nearby stretcher, Staff Sgt. Rene Fernandez struggled to see from eyes bruised nearly shut.

''We were clearing the area and an IED went off,'' he said, describing an incident outside the western city of Ramadi where his unit was patrolling on foot.

The Houston native counted himself lucky, escaping with a concussion and the temporary damage to his open, friendly face. Waiting for his own hop to the hospital plane headed north, he said what most soldiers tell surgeons: What he most wanted was to return to his unit.

S. 2524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON BLAST INJURIES OF VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 7327. Centers for research, education, and clinical activities on blast injuries

''(a) PURPOSE.—The purpose of this section is to provide for the improvement of the provision of health care services and related rehabilitation and education services to eligible veterans suffering from multiple traumas associated with a blast injury through—

''(1) the conduct of research to support the provision of such services in accordance with the most current evidence on blast injuries;

''(2) the education and training of health care personnel of the Department; and

''(3) the development of improved models and systems for the furnishing of services by the Department for blast injuries.

''(b) ESTABLISHMENT.—(1) The Secretary shall establish and operate at least one, but not more than three, centers for research, education, and clinical activities on blast injuries.

''(2) Each center shall function as a center for—

''(A) research on blast injury to support the provision of services in accordance with the most current evidence on blast injuries, with such research to specifically address injury epidemiology and cost, functional outcomes, blast injury taxonomy and measurement system, and longitudinal outcomes;

''(B) the development of a rehabilitation program for blast injuries, including referral protocol, post-acute assessment, and coordination of comprehensive treatment services;

''(C) the development of protocols to optimize linkages between the Department and the Department of Defense on matters relating to research, education, and clinical activities on blast injuries;

''(D) the creation of innovative models for education and outreach on health-care and related rehabilitation and education services on blast injuries, with such education and outreach to target those who have sustained a blast injury and health care providers and researchers in the Veterans Health Administration, the Department of Defense, and the Department of Homeland Security;

''(E) the development of educational tools and products on blast injuries, and the maintenance of such tools and products in a resource clearinghouse that can serve as resources for the Veterans Health Administration, the Department of Defense, the Department of Homeland Security, and other departments and agencies of the Federal Government;

''(F) the development of interdisciplinary training programs on the provision of health care and rehabilitation care services for blast injuries that provide an integrated understanding of the continuum of care for such injuries to the broad range of providers of such services, including first responders, acute-care providers, and rehabilitation service providers; and

''(G) the implementation of strategies for improving the medical diagnostic coding of blast injuries in the Department to reliably identify veterans with blast injuries and track outcomes over time.

''(3) The Secretary shall designate a designate a center or centers under this section upon the recommendation of the Under Secretary for Health.

''(4) The Secretary may designate a center under this section only if—

''(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

''(B) the Secretary makes the finding described in subsection (d); and

''(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

''(5) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

''(c) PROPOSAL REQUIREMENTS.—A proposal submitted for the designation of a center under this section shall—

''(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities (in this subsection referred to as the 'collaborating facilities') in the same geographic area that have a mission centered on the care of individuals with blast injuries and a Department facility in that area which has a mission of providing tertiary medical care;

''(2) provide that not less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating facilities with respect to the center; and

''(3) provide for a governance arrangement among the facilities described in paragraph (1) with respect to the center that ensures that the center will be established and operated in a manner aimed at improving the quality of care for blast injuries at the collaborating facilities with respect to the center.

''(d) FINDINGS RELATING TO PROPOSALS.—The finding referred to in subsection (b)(4)(B) with respect to a proposal for the designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

''(1) An arrangement with an affiliated accredited medical school or university that provides education and training in disaster preparedness, homeland security, and biodefense.

''(2) Comprehensive and effective treatment services for head injury, spinal cord injury, audiology, amputation, gait and balance, and mental health.

''(3) The ability to attract scientists who have demonstrated achievement in research—

''(A) into the evaluation of innovative approaches to the rehabilitation of blast injuries; or

''(B) into the treatment of blast injuries.

''(4) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of services on blast injuries that are provided by the Department at or through individual facilities.

''(e) DEPARTMENTAL SUPPORT ON EVALUATION OF CENTER PROPOSALS.—(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for blast injury matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

''(2) The panel shall consist of experts in the fields of research, education and training, and clinical care on blast injuries. Members of the panel shall serve as consultants to the Department.

''(3) The panel shall review each proposal submitted to the panel by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether or not that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

''(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(f) AWARD OF FUNDING.—Clinical and scientific investigation activities at each center established under this section—

''(1) may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research; and

''(2) shall receive priority in the award of funding from such amounts insofar as funds are awarded from such amounts to projects and activities relating to blast injuries.

''(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers established under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

''(2) Information shall be disseminated under this subsection through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

''(h) SUPERVISION.—The official within the central office of the Veterans Health Administration responsible for blast injury matters shall be responsible for supervising the operation of the centers established under this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

''(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers established under this section amounts as follows:

''(A) $3,125,000 for fiscal year 2005.

''(B) $6,250,000 for each of fiscal years 2006 through 2008.

''(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health shall allocate to each center established under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetics research, such additional amounts as the Under Secretary for Health determines appropriate to carry out the purpose of this section.''.

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7326, the following new item:

''7327. Centers for research, education, and clinical activities on blast injuries''

(b) DESIGNATION OF CENTERS.—The Secretary of Veterans Affairs shall designate at least one center for research, education, and clinical activities on blast injuries as required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than January 1, 2005.

(c) ANNUAL REPORTS.—(1) Not later than February 1 of each of 2006, 2007, and 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the center for research, education, and clinical activities on blast injuries established under section 7327 of title 38, United States Code (as so added). Each such report shall include the following:

(A) A description of the activities carried out at each center, and the funding provided for such activities.

(B) A description of the advances made at each of the participating facilities of the each center in research, education and training, and clinical activities on blast injuries .

(C) A description of the actions taken by the Under Secretary for Health pursuant to subsection (g) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

(D) The assessment of the Secretary of the effectiveness of the centers in fulfilling the purposes of the centers.

By Mr. SPECTER (for himself and Mr. SCHUMER):

S. 2525. A bill to establish regional dairy marketing areas to stabilize the price of milk and support the income of dairy producers; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I join today with nine of my colleagues to introduce the National Dairy Equity Act (NDEA), legislation intended to substantially reduce Federal expenditures for the dairy industry and allow for more local authority to regulate milk prices in a particular area. Members of the House of Representatives have introduced similar legislation with 20 cosponsors.

This legislation would establish a voluntary, national program that permits producers and consumers, acting through Regional Dairy Marketing Area (RDMAs), to establish minimum prices for Class I fluid milk, which is intended to stabilize the price of milk. Although the June 2004 Class I fluid milk price is $18.40, the true impetus for this legislation is based on the April 2003 price of $11.89, the lowest milk price in the last 25 years as of October 1978. The recent rise in milk price, while certainly welcome, gives only a temporary respite from the low prices of the past five years that have threatened the survival of thousands of dairy farm. In Pennsylvania alone, since 1999, 1,100 dairy farms have fallen victim to the battle over milk pricing.

Since last spring, I, along with my colleagues in both the Senate and the House representing the Northeast, South and Midwest, have held monthly meetings to address this dire situation faced by the dairy industry. Additionally, I have worked with Pennsylvania Department of Agriculture Secretary Dennis Wolff, the Pennsylvania Dairy Task Force, which represents Pennsylvania's 9,900 commercial dairy farms, and have assembled a working group of 24 Pennsylvania dairy farmers for their input, while holding eight forums in Pennsylvania discussing the merits of the legislation I present today.

Under the NDEA, five RDMAs would be established; three of these RDMAs, the Northeast, the South, and the Midwest, would be automatically deemed

as participating States, but there is a mechanism for any State to opt out. The States within the other two regions, the Intermountain and the Pacific, can opt into the program. Ultimately, the NDEA overcomes previous inter-regional objections to similar plans because it permits regions with low Class I utilization to receive the same benefit as higher regions, and does not require national pooling of money between the various regions.

Within each RDMA, a board, representative of both farmers and consumers, would be appointed by the U.S. Secretary of Agriculture exclusively from lists of nominees provided by the Governors, Ag Commissioners in which they are elected officeholders. The RDMA boards would distribute the payments to the farmers in their regions and would also have the authority to conduct supply management, including the development and implementation of incentive-based supply management programs.

Specifically, this legislation would allow states that do not wish to participate in the NDEA to continue participating in the current Milk Income Loss Contract (MILC) program, which would be extended to 2007 to coincide with the reauthorization of the Farm Bill. The MILC program is set to expire at the end of September 2005. Although I supported the MILC program when it was offered in the 2002 Farm Bill, I am aware that the MILC program is delinquent in providing a producer (farmer) referendum within a region; especially in the Northeast, to establish a regulated over-order price.

Equally, I am concerned about the cost of the MILC program. Since 2002, this program has cost the Federal Government nearly $1.65 billion, when it originally scored at only $1 billion from 2002 to September 2005. If enacted, the NDEA will reduce government spending by 90 percent in the Northeast, 100 percent in the South and 65 percent in the Midwest. Nationwide, this is a cost savings of nearly $700 million, roughly $200 million per year from enactment until 2007.

More specifically in Pennsylvania, the MILC payment program is costing the Federal Government roughly $44.2 million, which is dispersing payments to 8,300 dairy farms with herd sizes of roughly 100 cows or less. Under the NDEA, this cost to the Federal Government would be reduced by 90 percent, and would ultimately pay $35 million more to these farmers for a total of $78.6 million because the maximum price for milk would be capped at $17.50, national pooling under the MILC payment would be eliminated and better supply management techniques would be put into place.

Finally, this legislation clearly does not model a dairy compact because unlike a compact, the NDEA establishes a cap of $17.50 per cwt, hundredweight, on maximum Class I price, which could increase in succeeding years based on Consumer Price Index (CPI), Additionally, this legislation equalizes payments producers receive by establishing a 50 percent Class utilization payment for all regions thereby not placing low Class I utilization areas at a disadvantage, ultimately establishing a level playing field. The NDEA provides for federal authority for the establishment of five RDMAs, and establishes a central dairy producers payment fund at the Federal level that would transfer processor payments and if necessary CCC funds back to each RDMA in order to equalize all payments among regions.

As we continue to celebrate National Dairy Month, I urge my colleagues to cosponsor and support this timely legislation, which would help reduce the Federal deficit and would tighten the huge gap that exists in the stabilization of the milk price for the betterment of our nation's dairy industry.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, and Mr. CORZINE):

S. 2528. A bill to restore civil liberties under the First Amendment, the Immigration and Nationality Act, and the Foreign Intelligence Surveillance Act, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing the Civil Liberties Restoration Act of 2004.

The attacks of September 11 changed this nation forever. Much has been done since then to combat the threat of terrorism and make America safer. But not every measure or policy adopted after 9/11 has been effective, legal, or fair. The strengthening of security has sometimes meant the weakening of civil liberties. Often, the Bush Administration has misused the fear of terrorism as an excuse to ignore basic rights in our society.

Immigrants, especially Arabs and Muslims, became targets as the Administration carried out roundups of individuals based on national origin and religion, rather than any specific assessment of danger. Abusive detention practices took place. Registration programs have made criminal suspects out of legal immigrants.

These changes were implemented without Congressional consultation or approval. They have swept much too broadly and eliminated necessary checks and balances that prevent abuse. They have squandered our limited resources and have been more successful in alienating immigrant communities than in apprehending terrorists. We cannot allow fear to trump and trample the values upon which our country was founded. Our Nation can be both secure and free.

The Civil Liberties Restoration Act of 2004 will provide basic civil liberties protections, and restore balance and fairness to our laws in the treatment of immigrants. It will preserve fundamental rights without endangering national security. It will restore the confidence of immigrant communities, especially those unfairly targeted by recent and current policies.

It will place reasonable limitations on closed immigration hearings. On September 21, 2001, the Attorney General ordered immigration judges to close all hearings on individuals detained in the 9/11 investigation. In a highly critical report issued by the Inspector General of the Justice Department in April 2003 we learned that many were arrested as a result of ''chance encounters or tenuous connections'' to the investigation, rather than ''any genuine indications of a possible connection with or possession of information about terrorist activity.''

Nevertheless, over 600 immigration hearings were held in secret. Visitors, the press and even family members of the detainees were excluded. Consistent with the First Amendment, our legislation authorizes the closing of immigration hearings only when the government can demonstrate a compelling privacy or national security interest.

The bill will restore other due process protections weakened after 9/11. Before that, the INS was required to give notice to detained non-citizens within 24 hours of arrest, informing them of the charges against them. On September 20, 2001, Attorney General Ashcroft issued a regulation extending that period to 48 hours or ''an additional reasonable period of time'' in ''emergency or other extraordinary circumstances.''

This open-ended change led to serious abuses. As the Inspector General reported, some detainees were held for more than a month after their arrest, without being told of the charges against them. Often they were held in harsh and restrictive conditions and prevented from consulting with their attorneys.

Our legislation will require a charging document to be served within 48 hours of an arrest or detention. Noncitizens held for more than 48 hours would have to be brought before an immigration judge within 72 hours of their arrest or detention, with an exception for non-citizens who are certified by the Attorney General, based on reasonable grounds, as having engaged in espionage or a terrorist offense.

After 9/11, the Bush Administration also adopted policies that deny bond to many immigrants with no individual assessment of their danger or flight risk. Two examples of this policy were the ''hold until cleared'' policy criticized by the Inspector General's report, and the Attorney General's precedent decision declaring that all Haitians arriving by sea were a national security threat and must be detained.

Unilateral executive branch decisions mandating detention violate fundamental rights. Blanket detentions of persons who pose no flight risk or harm to the community waste valuable resources that should be used to apprehend criminals and terrorists.

Our legislation will require the Secretary of Homeland Security to provide all detainees with individual assessments to determine whether they pose a flight risk or a threat to public safety, except those in categories specifically designated by Congress as posing a special threat. If the individual is eligible for release, the Secretary must set a reasonable bond or other conditions to guarantee the person's appearance at future proceedings, and this decision would be subject to review by an immigration judge.

The authority of immigration judges was further weakened by an October 2001 regulation that authorizes the Attorney General to stay a decision by an immigration judge to release an individual if bond had originally been denied, or had been set at $10,000 or more. The current regulation goes too far. It allows the government's immigration attorneys to overrule a decision by an immigration judge that an individual does not pose a risk.

The bill puts reasonable limitations on this automatic stay authority. The Board of Immigration Appeals could stay the immigration judge's bond decision for a limited time, only when the government is likely to prevail in appealing that decision and there is a risk of irreparable harm in the absence of a stay.

In early 2002, Attorney General Ashcroft issued a series of ''procedural reforms'' purportedly designed to eliminate the backlog of cases in the Board of Immigration Appeals. Altering its practices in accordance with the new mandates, the Board has issued thousands of single-member decisions affirming without written opinions the decisions of the immigration judges. Before the changes took effect, 1 in 4 appeals was granted, now only 1 in 10 is granted. Instead of eliminating the backlog, however, the cases have shifted to the federal courts. The number of Board decisions being appealed to the federal courts has increased dramatically. The Ninth Circuit has received over 4,200 immigration appeals, more than four times the usual number.

These so-called reforms highlight the degree to which integrity and impartiality of the immigration courts have been compromised. To correct the problem, the bill establishes an independent regulatory agency within the Department of Justice to administer the immigration court system. Integrity would be restored by enabling Board Members and immigration judges to exercise independent judgment and discretion. The reforms will help ensure that individuals and families receive fair treatment in immigration decisions, which can have profound consequences for immigrants and refugees, such as permanent separation from loved ones, or deportation to countries where they may face persecution and even death.

The Act will also end the infamous National Security Entry-Exit Registration System—the NSEERS program which was launched by Attorney General Ashcroft in August 2002 and which required men from predominately Muslim or Arab countries to be fingerprinted, photographed, and interrogated, based on the absurd notion that terrorists would present themselves for registration and be caught.

As Vincent Cannistraro, former director of Counterterrorism Operations at the CIA, has said, policies like the NSEERS program caused fear and distrust and worked ''against intelligence-gathering by law enforcement, particularly the FBI.'' At a time when we needed vital intelligence information, members of these communities were unfairly stigmatized and discouraged from coming forward to help our law enforcement and counter-terrorism efforts.

According to Department of Homeland Security officials, no one registered under the NSEERS program was ever charged with terrorism. Last December, significant parts of the NSEERS program were suspended. Our bill will terminate it completely, and it will also close removal proceedings for certain individuals targeted under it.

A related issue is the exercise of prosecutorial discretion. More than 14,000 individuals who voluntarily complied with the NSEERS program were placed in removal proceedings for technical immigration violations, even though many of them had relief available to them or were in the process of applying for permanent residence. Immigration officers routinely refused to use their discretion not to arrest these individuals, or not to initiate removal proceedings against them, or not to release them from detention. The result was a massive diversion of resources away from investigations, prosecutions, and removals of criminals and terrorists.

Our bill will codify an immigration memorandum which outlines the parameters for the responsible exercise of prosecutorial discretion. The legislation makes clear that such discretion is not an invitation to violate or ignore the law, but is intended to give the government the flexibility to maximize its allocation of resources. Exercise of such discretion is particularly appropriate in light of the complexity of the immigration laws, the harshness of the consequences of enforcement, and the importance of conserving limited enforcement resources so that they are available for use against individuals who threaten our safety and security.

Given the problems inherent in the NSEERS program, the government should reconsider all pending NSEERS cases and determine whether a favorable exercise of discretion is warranted. Family ties, humanitarian concerns, and eligibility for relief are positive factors that should be considered in assessing such cases.

Our bill also protects the integrity of the National Crime Information Center database. For decades, in maintaining the database, the Department of Justice was required to obey the Privacy Act, which requires each agency to maintain its records ''with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individuals in the determination.'' In March 2003, Attorney General Ashcroft issued a regulation stating that these requirements no longer applied to the NCIC database, and justified the exemption because ''in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete.''

Our legislation requires the Attorney General to comply with the Privacy Act in maintaining the database. Circumventing this statutory obligation poses significant risks not only for individuals whose files may be part of this data system, but also for communities that rely on law enforcement to employ effective, reliable methods for protecting public safety.

This requirement is especially important today. The Attorney General announced last year that information on more than 400,000 persons with removal orders and an unknown number of alleged NSEERS violators would be included in the database. The error rate in immigration records has always been very high—a fact confirmed by numerous reports issued by the Inspector General. Requiring the Attorney General to comply with the Privacy Act will help prevent inaccurate and unreliable information from contaminating the database and harming individuals and communities.

The bill also protects privacy by ensuring that constitutional limitations apply to secret surveillance. The Patriot Act amended the Foreign Intelligence Service Act to permit surveillance or searches when a ''significant purpose'', not just the ''primary purpose'', of the surveillance or search is foreign intelligence. Under current procedures, when such evidence is brought before a court, it is nearly impossible for a criminal defendant to contest its introduction, because the government's application for the search is kept secret. When such evidence is used in criminal cases, the court should disclose the application and related materials to the defendant, subject to the Classified Information Procedures Act, which offers a balanced and effective way to protect both national security information and the rights of defendants.

In addition, the legislation provides that when such information from electronic surveillance and other sources is introduced in a criminal case, disclosure of the surveillance application, order, or other materials is permitted under the procedures in the Classified Information Procedures Act.

Finally, the bill addresses the practice of data-mining. Through comprehensive data-mining, many records that people believe are private can be

collected by computer, fed into a database and used by the government without their knowledge. Law enforcement must have the necessary means to protect our safety, but the use of data-mining technology should not be allowed to threaten privacy and civil liberties.

The legislation will require all federal agencies to report to Congress within 90 days and annually in future years on data-mining programs used to find patterns indicating terrorist or other criminal activity and the effect of these programs on civil liberties and privacy, so that Congress can exercise its oversight authority over federal agencies using this technology.

We know that we can protect our nation's security and still respect the basic rights of both citizens and immigrants. The Civil Liberties Restoration Act is a needed effort to end the abuse that has become all too common in the past three years, and Congress has a responsibility to end them. It has been said that our laws are the wise restraints that make us free. The restraints have been weakened in recent years, and we need to make them stronger.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Civil Liberties Restoration Act of 2004''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Fighting terrorism is a priority for our Nation.

(2) As Federal, State, and local law enforcement work tirelessly every day to prevent another terrorist attack, our Nation must continue to work to ensure that law enforcement have the legal tools and resources to do their job.

(3) At the same time, steps that are taken to protect the United States from terrorism should not undermine constitutional rights and protections.

(4) Some of the steps taken by the Administration since September 11, 2001, however, have undermined constitutional rights and protections.

(5) Our nation must strive for both freedom and security.

(6) This Act seeks to restore essential rights and protections without compromising our Nation's safety.

TITLE I—RESTORING FIRST AMENDMENT RIGHTS

SEC. 101. LIMITATION ON CLOSED IMMIGRATION HEARINGS.

(a) IN GENERAL.—Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

''(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

''(1) IN GENERAL.—Subject to paragraph (2), a removal proceeding held pursuant to this section shall be open to the public.

''(2) EXCEPTIONS.—Portions of a removal proceeding held pursuant to this section may be closed to the public by an immigration judge on a case by case basis, when necessary—

''(A) to preserve the confidentiality of applications for asylum, withholding of removal, relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902), or the Victims of Trafficking and Violence Prevention Act of 2000 (Public Law 106–386; 114 Stat. 1464), or other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence, all with the consent of the alien;

''(B) to prevent the disclosure of classified information that threatens the national security of the United States and the safety of the American people; or

''(C) to prevent the disclosure of the identity of a confidential informant.

''(3) COMPELLING GOVERNMENT INTEREST.—In order for portions of removal proceedings to be closed to the public in accordance with this subsection, the government must show that such closing of the proceedings is necessitated by a compelling governmental interest and is narrowly tailored to serve that interest.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 240(b) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)) is amended—

(1) in paragraph (5)(C)(i), by striking ''subsection (e)(1)'' and inserting ''subsection (f)(1)''; and

(2) in paragraph (7), by striking ''subsection (e)(1)'' and inserting ''subsection (f)(1)''.

TITLE II—PROVIDING DUE PROCESS FOR INDIVIDUALS

SEC. 201. TIMELY SERVICE OF NOTICE.

(a) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) NOTICE OF CHARGES.—The Secretary of Homeland Security shall serve a notice to appear on every alien arrested or detained under this Act, except those certified under section 236A(a)(3), within 48 hours of the arrest or detention of such alien. Any alien, except those certified under section 236A(a)(3), held for more than 48 hours shall be brought before an immigration judge within 72 hours of the arrest or detention of such alien. The Secretary of Homeland Security shall—

''(1) document when a notice to appear is served on a detainee in order to determine compliance by the Department of Homeland Security with the 48-hour notice requirement; and

''(2) submit to the Committees on the Judiciary of the Senate and the House of Representatives an annual report concerning the Department of Homeland Security's compliance with such notice requirement.''.

(b) APPLICABILITY OF OTHER LAW.—Nothing in section 236(f) of the Immigration and Nationality Act, as added by subsection (a), shall be construed to repeal section 236A of such Act (8 U.S.C. 1226a).

SEC. 202. INDIVIDUALIZED BOND DETERMINATIONS.

(a) IN GENERAL.—Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226(a)) is amended—

(1) by striking ''On a warrant'' and inserting the following:

''(1) IN GENERAL.—On a warrant'';

(2) by striking ''Except as provided'' and all that follows through the end and inserting the following: ''This subsection shall apply to all aliens detained pending a decision on their removal or admission, regardless of whether or not they have been admitted to the United States, including any alien found to have a credible fear of persecution under section 235(b)(1)(B) or any alien admitted or seeking admission under the visa waiver program pursuant to section 217. Except as provided in subsection (c) and pending such decision, the Secretary of Homeland Security shall—

''(A) make an individualized determination as to whether the alien should be released pending administrative and judicial review, to include a determination of whether the alien poses a danger to the safety of other persons or property and is likely to appear for future scheduled proceedings; and

''(B) grant the alien release pending administrative and judicial review under reasonable bond or other conditions, including conditional parole, that will reasonably assure the presence of the alien at all future proceedings, unless the Secretary of Homeland Security determines under subparagraph (A) that the alien poses a danger to the safety of other persons or property or is unlikely to appear for future proceedings.

''(2) INDIVIDUALIZED DETERMINATIONS.—An individualized determination made by the Secretary of Homeland Security pursuant to paragraph (1)(A) shall be reviewable at a hearing held before an immigration judge pursuant to section 240. An immigration judge who reviews an initial bond determination by the Secretary of Homeland Security, or who makes a bond determination prior to a decision by the Secretary of Homeland Security, shall apply the same standards set forth in subparagraphs (A) and (B) of paragraph (1).''.

(b) REVOCATION OF BOND OR PAROLE.—Section 236(b) of the Immigration and Nationality Act (8 U.S.C. 1226(b)) is amended by striking ''The Attorney General'' and all that follows through the period and inserting the following: ''The bond or parole determination made pursuant to subsection (a)(1)(B) may be revoked or modified only by an immigration judge in proceedings held pursuant to section 240, and only if the party seeking to revoke or modify the bond or parole determination can establish a change in circumstances. The administrative decision finding the alien removable does not, in and of itself, constitute a change in circumstances. At such a hearing, if changed circumstances are established, the immigration judge shall make a new individualized determination in the manner described in subsection (a).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''; and

(2) in subsection (e), by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''.

SEC. 203. LIMITATION ON STAY OF A BOND.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as amended by section 201, is further amended by adding at the end the following:

''(g) STAY OF A BOND DETERMINATION.—An order issued by an immigration judge to release an alien may be stayed by the Board of Immigration Review, for not more than 30 days, only if the Government demonstrates—

''(1) the likelihood of success on the merits;

''(2) irreparable harm to the Government if a stay is not granted;

''(3) that the potential harm to the Government outweighs potential harm to alien; and

''(4) that the grant of a stay is in the interest of the public.''.

SEC. 204. IMMIGRATION REVIEW COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established within the Department of Justice an independent regulatory agency to be known as the Immigration Review Commission (referred to in this section as the ''Commission''). The Executive Office of Immigration Review is hereby abolished and replaced with such Commission.

(2) TRANSFER OF AUTHORITY.—The Commission shall perform all administrative, appellate, and adjudicatory functions that were, prior to the date of enactment of this Act, the functions of the Executive Office of Immigration Review or were performed by any officer or employee of the Executive Office of Immigration Review in the capacity of such officer or employee. Such functions shall not include the policy-making, policy-implementation, investigatory, or prosecutorial functions of the Department of Homeland Security.

(3) ORGANIZATION.—The Commission shall consist of:

(A) The Office of the Director.

(B) The Board of Immigration Review.

(C) The Office of the Chief Immigration Judge.

(D) The Office of the Chief Administrative Hearing Officer.

(b) OFFICE OF THE DIRECTOR.—

(1) APPOINTMENT.—There shall be as the head of the Commission, a Director who shall be appointed by the President with the advice and consent of the Senate.

(2) TRANSFER OF OFFICES.—The following officers shall be transferred from the Executive Office for Immigration Review to the Office of the Director for the Commission:

(A) Deputy Director.

(B) General Counsel.

(C) Pro Bono Coordinator.

(D) Public Affairs.

(E) Assistant Director of Management Programs.

(F) Equal Employment Opportunity.

(3) RESPONSIBILITIES.—

(A) The Director shall oversee the administration of the Commission, and the creation of rules and regulations affecting the administration of the courts.

(B) The Director shall appoint a Deputy Director to assist with the duties of the Director and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed.

(c) BOARD OF IMMIGRATION REVIEW.—

(1) IN GENERAL.—The Board of Immigration Review (referred to in this section as the ''Board'') shall perform the appellate functions of the Commission.

(2) APPOINTMENT.—The Board shall be composed of a Chairperson and not less than 14 other immigration appeals judges, appointed by the President, in consultation with the Director. The term of office of each member of the Board shall be 6 years.

(3) CURRENT MEMBERS.—Each individual who is serving as a member of the Board on the date of enactment of this Act shall be appointed to the Board utilizing a system of staggered terms of appointment based on seniority.

(4) MEMBERS.—The Chairperson and each other member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional, legal expertise in immigration and nationality law.

(5) CHAIRPERSON DUTIES.—The Chairperson shall—

(A) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(B) direct, supervise, and establish internal operating procedures and policies of the Board; and

(C) designate a member of the Board to act as Chairperson in the Chairperson's absence or unavailability.

(6) BOARD MEMBERS DUTIES.—In deciding the cases before the Board, the Board shall exercise its independent judgment and discretion and may take any action, consistent with its authorities under this section and regulations established in accordance with this section, that is appropriate and necessary for the disposition of such cases.

(7) JURISDICTION.—The Board shall have—

(A) such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals;

(B) de novo review of any decision by an immigration judge, and any final order of removal; and

(C) retention of jurisdiction over any case of an alien removed by the United States if the alien's case was pending for consideration before the Board prior to removal of the alien.

(8) ACTING IN PANELS.—

(A) IN GENERAL.—All cases shall be subject to review by a 3 member panel. The Chairperson shall divide the Board into 3 member panels and designate a presiding member of each panel such that—

(i) a majority of the number of Board members authorized to constitute a panel shall constitute a quorum for such panel; and

(ii) each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before it.

(B) FINAL DECISION.—A final decision of a panel shall be considered to be a final decision of the Board.

(9) EN BANC PROCESS.—

(A) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chairperson, consider any case as the full Board en banc, or reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel or by a limited en banc panel.

(B) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(10) DECISIONS OF THE BOARD.—

(A) IN GENERAL.—The decisions of the Board shall constitute final agency action. The precedent decisions of the Board shall be binding on the Department of Homeland Security and the immigration judges.

(B) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if the decision of the immigration judge resolved all issues in the case. An affirmance without opinion signifies the Board's adoption of the immigration judge's findings and conclusion in total.

(C) NOTICE OF APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in the court of appeals within 30 days of the date of the decision.

(d) OFFICE OF THE CHIEF IMMIGRATION JUDGE.—

(1) ESTABLISHMENT OF OFFICE.—There is established within the Commission an Office of the Chief Immigration Judge to oversee all the immigration courts and their proceedings throughout the United States. The head of the office shall be the Chief Immigration Judge who shall be appointed by the Director.

(2) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resources and facilities, and for the coordination of the schedules of immigration judges to enable the judges to conduct the various programs assigned to them. The Chief Immigration Judge may be assisted by a Deputy Chief Immigration Judge and Assistant Chief Immigration Judge.

(3) APPOINTMENT OF IMMIGRATION JUDGES.—

(A) IN GENERAL.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge and the Chair of the Board of Immigration Review. The term of each immigration judge shall be 12 years.

(B) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional, legal expertise in immigration and nationality law.

(C) CURRENT MEMBERS.—Each individual who is serving as an immigration judge on the date of enactment of this Act shall be appointed as an immigration judge utilizing a system of staggered terms of appointment based on seniority.

(4) DUTIES OF IMMIGRATION JUDGES.—In deciding the cases before them, immigration judges shall exercise their independent judgment and discretion and may take any action, consistent with their authorities under this section and regulations established in accordance with this section, that is appropriate and necessary for the disposition of such cases.

(5) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The Immigration Courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Immigration Courts within the Executive Office for Immigration Review.

(6) CONTEMPT AUTHORITY.—The contempt authority provided to immigration judges under section 240(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(1)) shall—

(A) be implemented by regulation not later than 120 days after the date of enactment of this Act;

(B) provide that any contempt sanctions, including any civil money penalty, shall be applicable to all parties appearing before the immigration judge and shall be imposed by a single process applicable to all parties.

(e) OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—

(1) IN GENERAL.—The Office of the Chief Administrative Hearing Officer shall be headed by a Chief Administrative Hearing Officer who shall be appointed by the Director.

(2) DUTIES AND RESPONSIBILITIES.—The duties and responsibilities of the current Office of the Chief Administrative Hearing Officer shall be transferred to the Commission.

(f) REMOVAL AND REVIEW OF JUDGES.—

(1) IN GENERAL.—Immigration judges and members of the Board of Immigration Review may be removed from office only for good cause—

(A) by the Director, in consultation with the Chair of the Board, in the case of the removal of a member of the Board; or

(B) by the Director, in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

(2) INDEPENDENT JUDGMENT.—No immigration judge or member of the Board shall be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by subsections (c)(6) and (d)(4).

(g) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the

Director shall issue regulations to implement this section.

TITLE III—EFFECTIVE LAW ENFORCEMENT

SEC. 301. TERMINATION OF THE NSEERS PROGRAM; ESTABLISHMENT OF REASONABLE PENALTIES FOR FAILURE TO REGISTER.

(a) TERMINATION OF NSEERS.—

(1) IN GENERAL.—The National Security Entry-Exit Registration System (NSEERS) program administered by the Secretary of Homeland Security is hereby terminated.

(2) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Nothing in this section shall amend the Integrated Entry and Exit Data System established in accordance with section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

(3) ADMINISTRATIVE CLOSURE OF REMOVAL PROCEEDINGS.—

(A) IN GENERAL.—All removal proceedings initiated against any alien as a result of the NSEERS program shall be administratively closed. This paragraph shall apply to all aliens who were—

(i) placed in removal proceedings solely for failure to comply with the requirements of the NSEERS program; or

(ii) placed in removal proceedings while complying with the requirements of the NSEERS program and—

(I) had a pending application before the Department of Labor or the Department of Homeland Security for which there is a visa available;

(II) did not have a pending application before the Department of Labor or the Department of Homeland Security for which there is a visa available but were eligible for an immigration benefit; or

(III) were eligible to apply for other forms of relief from removal.

(B) EXCEPTIONS.—This paragraph shall not apply in cases in which the aliens are removable under—

(i) section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)); or

(ii) paragraph (2) or (4) of section 237(a) of that Act (8 U.S.C. 1227(a)(2) or (4)).

(4) MOTIONS TO REOPEN.—Notwithstanding any limitations imposed by law on motions to reopen removal proceedings, any alien who received a final order of removal as a result of the NSEERS program shall be eligible to file a motion to reopen the removal proceeding and apply for any relief from removal that such alien may be eligible to receive.

SEC. 302. EXERCISE OF PROSECUTORIAL DISCRETION.

(a) SENSE OF CONGRESS REGARDING PROSECUTORIAL DISCRETION.—

(1) FINDINGS.—Congress finds the following:

(A) Exercising prosecutorial discretion is not an invitation to violate or ignore the law, rather it is a means by which the resources of the Secretary of Homeland Security may be used to best accomplish the mission of the Department of Homeland Security in administering and enforcing the immigration laws of the United States.

(B) Although a favorable exercise of discretion by any office within the Department of Homeland Security should be respected by other offices of such Department, unless the facts and circumstances in a specific case have changed, the exercise of prosecutorial discretion does not grant lawful status under the immigration laws, and there is no legally enforceable right to the exercise of prosecutorial discretion.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the exercise of prosecutorial discretion does not lessen the commitment of the Secretary of Homeland Security to enforce the immigration laws to the best of the Secretary's ability.

(b) PROSECUTORIAL DISCRETION.—The Secretary of Homeland Security shall exercise prosecutorial discretion in deciding whether to exercise its enforcement powers against an alien. This discretion includes—

(1) focusing investigative resources on particular offenses or conduct;

(2) deciding whom to stop, question, and arrest;

(3) deciding whether to detain certain aliens who are in custody;

(4) settling or dismissing a removal proceeding;

(5) granting deferred action or staying a final removal order;

(6) agreeing to voluntary departure, permitting withdrawal of an application for admission, or taking other action in lieu of removing an alien;

(7) pursuing an appeal; or

(8) executing a removal order.

(c) FACTORS FOR CONSIDERATION.—The factors that shall be taken into account in deciding whether to exercise prosecutorial discretion favorably toward an alien include—

(1) the immigration status of the alien;

(2) the length of residence in the United States of the alien;

(3) the criminal history of the alien;

(4) humanitarian concerns;

(5) the immigration history of the alien;

(6) the likelihood of ultimately removing the alien;

(7) the likelihood of achieving the enforcement goal by other means;

(8) whether the alien is eligible or is likely to become eligible for other relief;

(9) the effect of such action on the future admissibility of the alien;

(10) current or past cooperation by the alien with law enforcement authorities;

(11) honorable service by the alien in the United States military;

(12) community attention; and

(13) resources available to the Department of Homeland Security.

SEC. 303. CIVIL PENALTIES FOR TECHNICAL VIOLATIONS OF REGISTRATION REQUIREMENTS.

(a) REGISTRATION PENALTIES.—Section 266(a) of the Immigration and Nationality Act (8 U.S.C. 1306(a)) is amended by striking ''Any alien'' and all that follows through the period and inserting the following: ''(1) A civil penalty shall be imposed, in accordance with paragraph (2), on any alien who is required to apply for registration and be fingerprinted under section 262 or 263, who willfully fails or refuses to make such application or be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien as required by such section.

''(2) The Secretary of Homeland Security may levy a civil monetary penalty of up to—

''(A) $100 for a first violation of section 262 or 263;

''(B) $500 for a second violation of section 262 or 263; and

''(C) $1,000 for each subsequent violation of section 262 or 263 after the second violation.

(b) OTHER PENALTIES.—Section 266(b) of the Immigration and Nationality Act (8 U.S.C. 1306(b)) is amended to read as follows:

''(b)(1) A penalty shall be imposed, in accordance with paragraph (2), on any alien or the parent or legal guardian in the United States of any alien who fails to submit written notice to the Secretary of Homeland Security as required by section 265. No penalty shall be imposed with respect to a failure to submit such notice if the alien establishes that such failure was reasonably excusable or was not willful.

''(2) Except as provided in paragraphs (4) and (5), the Secretary of Homeland Security shall levy a civil monetary penalty of—

''(A) up to $100 against an alien who fails to submit written notice in compliance with section 265;

''(B) up to $500 against an alien for a second violation of section 265; and

''(C) up to $1,000 for each subsequent violation of section 265 after the second violation.

''(3) Notwithstanding any other provision of this Act, no change of immigration status shall result from failure to submit written notice as required by section 265.

''(4) During the transition period, a failure to comply with section 265 shall not result in a penalty or a change in immigration status. At the conclusion of the transition period, the Secretary of Homeland Security shall collect and maintain statistics concerning all enforcement actions related to this subsection.

''(5) The penalties imposed under this subsection shall not apply to an alien who previously failed to submit a change of address prior to the date of enactment of the Civil Liberties Restoration Act of 2004 or the end of the transition period if the alien submits a change of address within 6 months after the end of the transition period. A penalty shall be imposed, in accordance with paragraph (2), on any alien who fails to submit a change of address within the 6-month period following the transition period.

''(6) In this subsection, the term 'transition period' means the period beginning on the date of enactment of the Civil Liberties Restoration Act of 2004 and ending 1 year after the date of enactment of such Act, at which time the Secretary of Homeland Security shall implement a system to record and preserve on a timely basis addresses provided under section 265.''.

SEC. 304. NCIC COMPLIANCE WITH THE PRIVACY ACT.

Data entered into the National Crime Information Center database must meet the accuracy requirements of section 552a of title 5, United States Code (commonly referred to as the ''Privacy Act'').

TITLE IV—PROTECTING PRIVACY AND ENSURING DUE PROCESS FOR TARGETS OF SURVEILLANCE

SEC. 401. MODIFICATION OF AUTHORITIES ON REVIEW OF MOTIONS TO DISCOVER MATERIALS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ELECTRONIC SURVEILLANCE.—Section 106(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(f)) is amended—

(1) in the first sentence, by striking ''shall,'' and inserting ''may,''; and

(2) by striking the last sentence and inserting the following new sentence: ''In making this determination, the court shall disclose, if otherwise discoverable, to the aggrieved person, the counsel of the aggrieved person, or both, under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.), portions of the application, order, or other materials relating to the surveillance unless the court finds that such disclosure would not assist in determining any legal or factual issue pertinent to the case.''.

(b) PHYSICAL SEARCHES.—Section 305(g) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825(g)) is amended—

(1) in the first sentence, by striking ''shall,'' and inserting ''may,''; and

(2) by striking the last sentence and inserting the following new sentence: ''In making this determination, the court shall disclose, if otherwise discoverable, to the aggrieved person, the counsel of the aggrieved person,

or both, under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.), portions of the application, order, or other materials relating to the physical search, or may require the Attorney General to provide to the aggrieved person, the counsel of the aggrieved person, or both a summary of such materials unless the court finds that such disclosure would not assist in determining any legal or factual issue pertinent to the case.''.

(c) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1845(f)) is amended by striking paragraph (2) and inserting the following:

''(2) Unless the court finds that such disclosure would not assist in determining any legal or factual issue pertinent to the case, the court shall disclose, if otherwise discoverable, to the aggrieved person, the counsel of the aggrieved person, or both, under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.), portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or evidence or information obtained or derived from the use of a pen register or trap and trace device, as the case may be.''.

(d) DISCLOSURE OF CERTAIN BUSINESS RECORDS.—(1) Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended—

(A) by redesignating section 502 as section 503; and

(B) by inserting after section 501 the following new section:

''DISCLOSURE OF CERTAIN BUSINESS RECORDS AND ITEMS GOVERNED BY THE CLASSIFIED INFORMATION PROCEDURES ACT

''SEC. 502. Any disclosure of applications, information, or items submitted or acquired pursuant to an order issued under section 501, if such information is otherwise discoverable, shall be conducted under the procedures and standards provided in the Classified Information Procedures Act (18 U.S.C. App.).''.

(2) The table of sections for that Act is amended by striking the item relating to section 502 and inserting the following new items:

''Sec. 502. Disclosure of certain business records and items governed by the Classified Information Procedures Act.

''Sec. 503. Congressional oversight.''.

SEC. 402. DATA-MINING REPORT.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(D) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(E) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(F) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(G) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be—

(A) submitted not later than 90 days after the date of enactment of this Act; and

(B) updated once a year and include any new data-mining technologies.

By Mr. WYDEN:

S. 2531. A bill to assist displaced American workers during a jobless recovery, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, as many as half a million Americans in the services sector have lost their jobs in the past three years; off-shoring threatens to wipe out 3.3 million more jobs in the coming decade. An off-shoring tsunami is bearing down on workers in the information technology and services sector. The most vulnerable jobs are those considered the cream of the new economy: highly paid database managers, software coders, financial analysts and accountants.

In places like my own State of Oregon, the prolonged jobless recovery is causing many people real pain. Highly educated and experienced workers are being forced to walk an economic tightrope. Displaced software workers with advanced degrees are forced to search for entry-level positions, but employers won't hire them because they're overqualified. In Oregon and elsewhere, the number of discouraged workers leaving the workforce altogether is unprecedented. If these folks were counted the national unemployment rate would be 7.4 percent rather than the current 5.6 percent.

Something in the country's tax and trade policy is seriously awry when productivity is generating wealth for a few, but not employment for the many who want to work. Something just isn't right when people can't find jobs but productivity is growing faster now than in the late 1990's, corporate profits as a share of national income are at an all-time high and all of the extra $220 billion in GDP has gone into corporate profits. In my view part of problem can be traced to U.S. tax and trade policies that actually encourage U.S. corporations to move jobs overseas rather than encourage American business to invest in American workers. These policies need to be changed.

The legislation that I am introducing today, the Keep American Jobs at Home Act, takes a first step toward eliminating tax and trade policies that favor off-shoring and overseas outsourcing at the expense of American workers. It will eliminate tax breaks for off-shoring and extend wage and training and health care premium assistance to serviceworkers who lose their jobs because of trade.

The first key feature of the bill will eliminate tax breaks for U.S. corporate off-shoring so that corporations cannot ship millions of jobs overseas courtesy of the American taxpayer. The average American probably does not know that his or her taxes are used to offset the off-shoring of their own jobs. That's right: current law allows the taxes of hard-working Americans to go right into the pockets of corporations to help them offshore and outsource American jobs. No corporation should get such a tax break, and no American taxpayer should be asked to foot the bill for their own pink slip.

Today, when a corporation sends executives and staff overseas to scope out a new facility, to buy an existing firm, or to hire foreign workers to replace employees in the United States the corporation can deduct the costs from its gross income. This means that the corporation gets a tax break on the compensation of the executives, the salaries and wages of workers, travel, lodging, meals, the cost of Internet access, computer time, copies, faxes and anything else that falls into the broad category of deductions from gross income for trade and business expenses. This means a corporation get a business expense write-off for just about any item imaginable related to off-shoring.

The bill says the costs of off-shoring and outsourcing will no longer be ''ordinary and necessary expenses.'' When is it ever necessary that a taxpayer foot the bill for her own pink slip? When is it ever necessary that taxpayer dollars subsidize the traveling expenses of a group of executives looking to relocate a manufacturing facility in a foreign country?

A respected industry research group predicts that by the end of this year, one of out every ten jobs in the U.S. IT provider industry will move to emerging markets and one out of every 20 IT jobs within user enterprises. And these figures cover jobs only in the IT sector. Under current law, all of the ''ordinary and necessary expenses paid or incurred'' in moving these millions of jobs overseas would be deductible from corporate gross income.

If a corporation opts to fire U.S. workers here at home and instead hire workers overseas, then the company should make that business decision based on the full cost of the transaction, not the cost subsidized by tax deductions courtesy of the American taxpayer.

Another important part of the bill will put in place a safety net for displaced IT and other service workers. Such a safety net, known as Trade Adjustment Assistance, or TAA, has been in place since 1962 for displaced manufacturing workers. This provision will make service sector workers displaced by trade eligible for TAA, giving them retraining, income support and a health insurance tax credit.

I was disappointed when this part of the legislation won a majority vote in the United States Senate recently, but failed to reach the 60 vote threshold needed to overcome a point of order raised by opponents. I believe it is more necessary than ever to provide assistance to workers who lose their jobs because of policies the Federal Government has adopted.

Globalization of technology is globalizing the technology workforce. Geography is increasingly less important in determining where a job can be done. The transformation from an economy built on smokestacks to one built on packets of light has come at a heavy price. Today, a software programmer in Beijing or Bangalore can perform the same tasks as a programmer in Beaverton, OR, but the programmer in Beijing or Bangalore will cost the company as little as one-fifth to one-tenth what the American programmer will be paid.

The irony is that some of the very same workers who launched the technology revolution have now become its victims. Hardly a day goes by without a front page story about an American programmer on his way out having to train a foreign worker who will replace him.

The average American may think the Federal Government is helping those tech workers displaced by trade. But it is not. That's because U.S. trade assistance laws were designed for the manufacturing era. Since 1962, when a worker lost his job in a manufacturing plant as a result of trade, he could get help through the TAA. TAA has helped hundreds of thousands of displaced workers.

But workers in the services sector—which now accounts for four-fifths of the U.S. workforce—are not eligible for TAA. Time after time, when a displaced software developer, accountant, or telemedicine support staff has gone knocking on TAA's door for help, they have been turned away. Our bill will open TAA's door to these and other displaced service sector workers. All of these workers who have been displaced by trade deserve the same benefits.

This part of the bill will establish equity in the Trade Adjustment Assistance program between manufacturing and service workers. It will cover three categories of trade-impacted service workers: 1. those who lose their jobs when their employer closes or lays off because of import competition; 2. public and private sector service workers who lose their jobs when their facility moves overseas; and 3. secondary service workers who provide services to a primary firm where workers are eligible for TAA and whose closure causes the layoff or closure at the secondary firm.

Why is TAA so important? Because it provides retraining, income support, health insurance tax credit and other benefits to workers who lose their jobs due to trade. It can also help ''secondary workers''—those supplying parts or services and who may lose their jobs when the facility they service shuts down due to import competition or moves overseas.

Another innovative way to encourage the unemployed to reenter the workforce is to provide wage insurance for qualifying displaced workers upon reemployment. Eligible workers receive up to $10,000 over two years to cover up to 50 percent of the difference in salary between a new, lower paying job and their former position. The bill also would lower the qualifying age from 50 to 40. Wage insurance helps ease the burden of reentry for eligible workers who cannot find new employment at wages comparable to their previous positions.

Workers reeling from the off-shoring of service sector jobs cannot afford to wait for the higher-skilled jobs economists promise are around the corner. Higher-value, higher-paid systems integration jobs may come along, but in this jobless recovery unemployed IT professionals are more likely to see Elvis than a sudden proliferation of help wanted ads for new, highly-skilled IT jobs. The wage insurance and TAA pieces of this legislation address what American workers really need: a fighting chance to survive in a relentlessly global economy.

This provision offers corporate boards of directors and officers a safe harbor against shareholder lawsuits involving a business decision not to outsource or off-shore American jobs. A corporation that chooses to keep its workers out of breadlines over the numbers on its bottom line should not run the risk that it could be sued for potentially lower profits or return to shareholders.

In 2002, Congress offered TAA workers help in paying for health insurance while they pursue TAA training or retraining. The vast majority of unemployed workers just don't have the money to afford health care for themselves and their families. The Health Care Tax Credit program was intended to help workers keep coverage until they are reemployed. Unfortunately, the level of premium assistance and bureaucratic obstacles led to fewer than five percent of eligible workers taking advantage of the health care tax credit.

The provisions in Title II of the bill seek to remove these barriers to participation. The bill would boost the premium coverage from 65 percent to 75 percent, clarify that any TAA worker who had three months coverage prior to losing his job is eligible for the HCTC, allow workers to get less expensive group coverage, give coverage to spouses of Medicare-eligible TAA recipients workers, and require the IRS to expedite refunds of the first month's tax credit.

In closing, I recall that the Chairman of the Council of Economic Advisors just a few months ago called off-shoring ''just a new way of doing international trade. More things are tradable than were tradable in the past, and that's a good thing. When a good or service is produced at lower cost in another country, it makes sense to import it rather than to produce it domestically.''

If this is the ''new way of doing international trade,'' the United States needs a new policy to help the nearly 4 million Americans whose information technology and related jobs have been or are expected to be moved overseas. The country needs a tax and trade policy that promotes rather than discourages investment in American workers. The country needs a tax and trade policy that eases rather than increases the pain of worker dislocation and that eliminates the tax breaks that entice U.S. businesses to move overseas. These are the goals of the Keep American Jobs at Home Act, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Keeping American Jobs at Home Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Senate finds the following:

(1) The unusually prolonged period in which there has been negative job growth has caused an unprecedented number of people to refrain from actively looking for work and, therefore, to be excluded from the unemployment measurement, effectively creating a ''missing'' labor force. If the unemployment rate in February 2004 took into account this missing labor force, the unemployment rate would have been 7.4 percent or 1.8 percent greater than the official rate of 5.6 percent.

(2) Newly released unemployment figures show that the trend toward growing long-term unemployment continued last year, the second year after the recession ended.

(3) An analysis of long-term unemployment from 2000 to 2003 shows that the number of people without work for 6 months or more has risen at the extraordinarily high rate of 198.2 percent over this period, from just over 649,000 in 2000 to nearly 2,000,000 in 2003.

(4) According to the Bureau of Labor Statistics, in 2003, 22.1 percent of all unemployed workers had been out of work for more than 6 months, an increase from 18.3 percent in 2002. This proportion is higher than at comparable points in the recovery periods of the 4 most recent recessions, and is the highest rate since 1983.

(5) In 2005, 588,000 American jobs are projected to be moved overseas. In 2010, that number is expected to grow to 1,600,000 and by 2015, 3,300,000 American jobs will be moved overseas.

(6) In February 2004, the Chairman of the Council of Economic Advisors, called offshoring ''just a new way of doing international trade. More things are tradable than were tradable in the past, and that's a good thing. When a good or service is produced at lower cost in another country, it makes sense to import it rather than to produce it domestically.''.

(7) Immediate action is necessary to encourage United States companies to keep American jobs at home, to assist displaced American workers in finding new, family wage jobs, and to assure that the current American workforce has the skills to compete and win in the global economy.

(b) PURPOSE.—The purpose of this Act is to assist displaced American workers during a jobless recovery by—

(1) ensuring displaced workers in the software, information technology, and services sectors have access to the same trade adjustment assistance and health care tax credits as displaced manufacturing workers;

(2) providing wage insurance for qualifying displaced workers upon reemployment (to make up part of the difference between a new, lower salary and a previous, higher salary); and

(3) providing a legal safe harbor for United States businesses that choose to keep American jobs at home.

TITLE I—ASSISTANCE FOR DISPLACED AMERICAN WORKERS

SEC. 101. ELIMINATION OF TAX SUBSIDIES FOR OUTSOURCING OF AMERICAN JOBS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following new section:

''SEC. 280I. ELIMINATION OF TAX SUBSIDIES FOR OUTSOURCING OF AMERICAN JOBS.

''(a) IN GENERAL.—No deduction or credit shall be allowed under this chapter with respect to any applicable outsourcing item.

''(b) APPLICABLE OUTSOURCING ITEM.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable outsourcing item' means any item of expense (including any allowance for depreciation or amortization) or loss arising in connection with 1 or more transactions which—

''(A) transfer the production of goods (or the performance of services) from within the United States to outside the United States, and

''(B) result in the replacement of workers who reside in the United States with other workers who reside outside of the United States.

''(2) CERTAIN ITEMS INCLUDED.—The term 'applicable outsourcing item' shall include with respect to any transaction described in paragraph (1)—

''(A) any amount paid or incurred in training the replacement workers described in paragraph (1)(B),

''(B) any amount paid or incurred in transporting tangible property outside the United States in connection with the transfer described in paragraph (1)(A),

''(C) any expense or loss incurred in connection with the sale, abandonment, or other disposition of any property or facility located within the United States and used in the production of goods (or the performance of services) before such transfer,

''(D) expenses paid or incurred for travel in connection with the planning and carrying out of any such transaction,

''(E) any general or administrative expenses properly allocable to any such transaction,

''(F) any amount paid or incurred in connection with any such transaction for the acquisition of any property or facility located outside the United States, and

''(G) any other item specified by the Secretary.

''(3) CERTAIN ITEMS NOT INCLUDED.—The term 'applicable outsourcing item' shall not include any expenses directly allocable to the sale of goods and services without the United States.

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the provisions of this section. The Secretary shall prescribe initial regulations not later than 180 days after the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 280I. Elimination of tax subsidies for outsourcing of American jobs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring on or after the date of enactment of this Act.

SEC. 102. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(B) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

(4) by adding at the end the following new subsection:

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 103. WAGE INSURANCE FOR QUALIFYING DISPLACED WORKERS UPON REEMPLOYMENT.

(a) IN GENERAL.—Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended to read as follows:

''SEC. 246. WAGE INSURANCE FOR DISPLACED WORKERS.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a wage insurance program for displaced workers that provides the benefits described in paragraph (2).

''(2) BENEFITS.

''(A) PAYMENTS.—A State shall use the funds provided to the State under section 241 to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

''(i) the wages received by the worker from reemployment; and

''(ii) the wages received by the worker at the time of separation.

''(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, as added by section 201 of the Trade Act of 2002.

''(3) ELIGIBILITY.—

''(A) FIRM ELIGIBILITY.—

''(i) IN GENERAL.—The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 221 to request that the group of workers be certified for the wage insurance program under this section at the time the petition is filed.

''(ii) CRITERIA.—In determining whether to certify a group of workers as eligible for the wage insurance program, the Secretary shall consider the following criteria:

''(I) Whether the workers in the workers' firm possess skills that are not easily transferable.

''(II) The competitive conditions within the workers' industry.

''(iii) DEADLINE.—The Secretary shall determine whether the workers in the group are eligible for the wage insurance program by the date specified in section 223(a).

''(B) INDIVIDUAL ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the wage insurance program may elect to receive benefits under the wage insurance program if the worker—

''(i) is covered by a certification under subchapter A of this chapter;

''(ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment; and

''(iii) earns not more than $50,000 a year in wages from reemployment;

''(iv) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(v) does not return to the employment from which the worker was separated.

''(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed $10,000 per worker during the 2-year eligibility period.

''(5) LIMITATION ON OTHER BENEFITS.—Except as provided in section 238(a)(2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

''(b) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after the date that is 5 years after the date on which such program is implemented by the State.

''(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph (1) shall continue to receive such payments provided that the worker meets the criteria described in subsection (a)(3)(B).''.

(b) CONFORMING AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by striking the item relating to section 246 and inserting the following:

''Sec. 246. Wage insurance for displaced workers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to workers certified as eligible for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 on or after the date of enactment of this Act.

SEC. 104. BUSINESS JUDGMENT DEFENSE FOR NON-OUTSOURCING.

Notwithstanding any other provision of law, a determination by the officers or directors of a corporation that it is in the best interest of the corporation to keep jobs within the United States and to not locate the domicile of the corporation outside of the United States, or move or carry out production or other business activities of the corporation or any portion thereof, outside of the United States, shall be considered in any action brought against the corporation based on such determination by the court of competent jurisdiction to be a matter of business judgment, and such officers or directors may not be found to have violated their fiduciary duty to the corporation in any such action, based on that determination.

TITLE II—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM AND SUBSEQUENT MONTHLY PREMIUMS PAID PRIOR TO CERTIFICATION OF ELIGIBILITY FOR THE CREDIT.

Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

''(e) EXPEDITED PAYMENT OF PREMIUMS PAID PRIOR TO ISSUANCE OF CERTIFICATE.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the percentage specified in section 35(a) of the premiums paid by such individual for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring prior to the issuance of a qualified health insurance costs credit eligibility certificate upon receipt by the Secretary of evidence of such payment by the certified individual.''.

SEC. 202. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

SEC. 203. CLARIFICATION OF ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) IN GENERAL.—Subsection (b) of section 35 of the Internal Revenue Code of 1986 (defining eligible coverage month) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.''.

(b) CONFORMING AMENDMENT.—Section 173(f)(5)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting ''(including with respect to any month for which the eligible individual would have been treated as such but for the application of paragraph (7)(B)(i))'' before the comma.

SEC. 204. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of

eligible individuals) is amended by striking ''65'' and inserting ''75''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 205. EXTENSION OF NATIONAL EMERGENCY GRANTS TO FACILITATE ESTABLISHMENT OF GROUP COVERAGE OPTION AND TO PROVIDE INTERIM HEALTH COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO QUALIFY FOR GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS; CLARIFICATION OF REQUIREMENT FOR GROUP COVERAGE OPTION.

(a) IN GENERAL.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) USE OF FUNDS.—

''(A) HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN QUALIFIED HEALTH INSURANCE THAT HAS GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) shall be used to provide an eligible individual described in paragraph (4)(C) and such individual's qualifying family members with health insurance coverage for the 3-month period that immediately precedes the first eligible coverage month (as defined in section 35(b) of the Internal Revenue Code of 1986) in which such eligible individual and such individual's qualifying family members are covered by qualified health insurance that meets the requirements described in clauses (i) through (iv) of section 35(e)(2)(A) of the Internal Revenue Code of 1986 (or such longer minimum period as is necessary in order for such eligible individual and such individual's qualifying family members to be covered by qualified health insurance that meets such requirements).

''(B) ADDITIONAL USES.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

''(i) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members in enrolling in health insurance coverage and qualified health insurance.

''(ii) ADMINISTRATIVE EXPENSES AND START-UP EXPENSES TO ESTABLISH GROUP COVERAGE OPTIONS FOR QUALIFIED HEALTH INSURANCE.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in health insurance coverage and qualified health insurance, including—

''(I) eligibility verification activities;

''(II) the notification of eligible individuals of available health insurance and qualified health insurance options;

''(III) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(IV) providing assistance to eligible individuals in enrolling in health insurance coverage and qualified health insurance;

''(V) the development or installation of necessary data management systems; and

''(VI) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses, in order for the State to treat at least 1 of the options described in subparagraphs (B) through (H) of subsection (e)(1) of section 35 of the Internal Revenue Code of 1986 as qualified health insurance under that section.

''(iii) OUTREACH.—To pay for outreach to eligible individuals to inform such individuals of available health insurance and qualified health insurance options, including outreach consisting of notice to eligible individuals of such options made available after the date of enactment of this clause.''; and

(2) by striking paragraph (2) and inserting the following:

''(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g), the term 'qualified health insurance' has the meaning given that term in section 35(e) of the Internal Revenue Code of 1986.''.

(b) FUNDING.—Section 174(c)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is amended—

(1) in the paragraph heading, by striking ''AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002'' and inserting ''APPROPRIATIONS''; and

(2) by striking subparagraph (A) and inserting the following:

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $300,000,000 for the period of fiscal years 2004 through 2006; and''.

(c) REPORT REGARDING FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following:

''(8) REPORT FOR FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—If the Secretary fails to make the notification required under clause (i) of paragraph (3)(A) within the 15-day period required under that clause, or fails to provide the technical assistance required under clause (ii) of such paragraph within a timely manner so that a State or entity may submit an approved application within 2 months of the date on which the State or entity's previous application was disapproved, the Secretary shall submit a report to Congress explaining such failure.''.

(d) CLARIFICATION OF REQUIREMENT TO ESTABLISH GROUP COVERAGE OPTION.—Subsection (g) of section 35 of the Internal Revenue Code of 1986 (relating to special rules) is amended—

(1) by redesignating paragraph (9) as paragraph (11); and

(2) by inserting after paragraph (8) the following:

''(9) REQUIREMENT TO ESTABLISH GROUP COVERAGE OPTION.—With respect to a State, no credit shall be allowed under this section to an individual who resides in that State on or after the date that is 2 years after the date of the enactment of this paragraph unless, not later than such date, the State has elected to have at least 1 of the options described in subparagraphs (B) through (H) of subsection (e)(1) treated as qualified health insurance under this section.

''(10) GROUP HEALTH PLAN.—For purposes of this section, the term 'group health plan' has the meaning given that term in section 5000(b)(1).''.

(e) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 933), subsection (f) of section 203 of that Act is repealed.

SEC. 206. ALIGNMENT OF COBRA COVERAGE WITH TAA PERIOD FOR TAA-ELIGIBLE INDIVIDUALS.

(a) ERISA.—Section 605(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(b)) is amended—

(1) in the subsection heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under section 602(2)(A) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

(b) INTERNAL REVENUE CODE OF 1986.—Section 4980B(f)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in the subparagraph heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in clause (ii)—

(A) in the clause heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under paragraph (2)(B)(i) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

(c) PUBLIC HEALTH SERVICE ACT.—Section 2205(b) of the Public Health Service Act (42 U.S.C. 300bb–5(b)) is amended—

(1) in the subsection heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under section 2202(2)(A) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

By Mr. ENSIGN (for himself and Mr. REID):

S. 2532. A bill to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise with my good friend Senator ENSIGN to co-sponsor a bill that is important to Lincoln County, important to Southern Nevada, and important to America.

The Lincoln County Conservation, Recreation and Development Act of 2004 accommodates southern Nevada's growth and meets our conservation challenges. I am pleased that Congressman GIBBONS, Congresswoman BERKLEY and Congressman PORTER are introducing companion legislation in the House of Representatives today. We are working together on a bipartisan basis to reach fair compromises on a number of difficult issues.

The Lincoln County Conservation, Recreation and Development Act represents a comprehensive plan that balances the needs for infrastructure development, recreation opportunities, and conservation of our natural resources and public lands in Lincoln County, Nevada. Our bill is a broad-based compromise. It creates utility corridors, resolves wilderness study area issues, provides for competitive, Federal land sales, designates a back country off-highway vehicle trail and provides for the conveyance of federal land to the State of Nevada and Lincoln County for use as public parks.

We do not expect everyone to advocate every provision of this bill. In fact, I don't imagine that anyone will champion every provision of this bill. It is a tough compromise and it is a good bill.

I will preface my description of the titles of this bill by reviewing the challenges that public land issues pose in Nevada. Nearly 9 out of every 10 acres in our State are owned and managed by the Federal Government. This includes land managed by the U.S. Forest Service, the Bureau of Reclamation, the Bureau of Land Management, the Department of Energy, the U.S. Navy, the U.S. Army and the U.S. Air Force.

In Lincoln County, the Bureau of Land Management, Fish and Wildlife Service and Department of Defense manage 49 out of every 50 acres—98 percent of the total land area.

Unlike most of America where land use decisions are made by local communities, many land use decisions in Nevada require concurrence of Federal officials and, in some cases, the passage of Federal laws. The Ely Field and the State offices of the BLM bear tremendous responsibilities with respect to the management, development, and conservation of natural resources in eastern Nevada, particularly in Lincoln County. Many of my colleagues from western states identify with the challenges and benefits of Federal land ownership.

In Lincoln County these challenges are compounded by rapid growth and a fragile ecology: The neighboring Las Vegas valley is the fastest growing community in the nation, and the Mojave Desert is one of North America's most extreme and vulnerable regions.

Many people believe this scenario poses an impossible challenge for Lincoln County. Some believe that managing growth in southern Nevada and protecting our desert for future generations are mutually exclusive. Some believe that protecting our air and water quality and recognizing that some open space should be set aside as wilderness are prohibitive barriers to growth that will unnecessarily restrict recreation. Some believe that the federal management of public land is too strict; others find it too lenient.

Some believe that every acre of Lincoln County should be privatized. Some believe that not a single acre should be auctioned from the public domain. The only common thread in these views is that they are perspectives passionately held by Nevadans.

I hope this context illustrates why compromise is not just desirable but necessary.

We fully expect some criticism for what this bill does not do. For example, it does not designate the more than 2.5 million acres that the Nevada Wilderness Coalition advocates in Lincoln County. Nor does the bill release all the wilderness study areas in Lincoln County as others advocate. Our compromise is fair, forward-looking and provides for conservation, recreation and development in Lincoln County and for southern Nevada.

The Lincoln County Conservation, Recreation and Development Act will enhance our quality of life, protect our environment for our children and grandchildren, and make public land available for housing, growth of the industrial base and infrastructure to meet community needs.

As I discuss each title of this bill, I will explain how these provisions reflect our shared effort to improve the quality of life and enhance economic opportunities for Nevadans while enriching and protecting the awe-inspiring natural and cultural resources with which southern Nevada is blessed. This bill will benefit Nevadans today, and for generations to come.

TITLE I—LAND SALES

The first title of our bill serves to increase the percentage of privately held ground in Lincoln County so local property taxes can better sustain basic governmental services. Some people oppose selling Federal land under any circumstances. However, in a case such as Lincoln County, where 98 percent of the 6.8 million acres is federally owned, blind and blanket opposition to land sales simply defies common sense.

Our bill makes available for auction up to about 90,000 acres, currently managed by the Bureau of Land Management. Further, the bill directs the BLM to proceed with the auctions required by the Lincoln County Land Act of 2000.

With respect to the 90,000 acres to be auctioned within Lincoln County, we provide for annual auctions until the acreage is sold or the County determines it prefers for the land to remain in Federal ownership. The bill does not stipulate how much acreage should or could be sold in a given year, or exactly which parcels of land should be sold, because those decisions are better left to the County, the municipalities, and citizens working in cooperation with the BLM.

This basic framework for so-called joint selection has worked very well in Clark County and we expect that it will be similarly successful in Lincoln County. This bill will greatly enhance the self determination of communities in Lincoln County.

The bill includes a provision that allows the Federal Government to retain up to 10,000 acres of the 90,000 set aside for disposal based on natural and cultural resource values. For example, if the land disposal areas in this bill include, unbeknownst to us, a significant petroglyph site or a population of a threatened or endangered species, the Secretary could choose to retain ownership.

As I have noted before on this floor, when Congress passed the Southern Nevada Public Lands Management Act of 1998, it established a new paradigm for the sale of public lands in Clark County, Nevada. One of the core principles of this new way of doing business was that the proceeds from the sale of Federal lands should be reinvested in Federal, State, and local environmental protection, infrastructure and recreational enhancements in the areas and communities where the lands are sold.

This bill is patterned after that law and provides a revenue source for following through on the various provisions of this bill such as the creation and management of an off-highway vehicle route and new wilderness areas.

TITLE II—WILDERNESS

Nevada has more than 80 wilderness study areas on Federal land across the State. These areas, which are primarily owned by the Bureau of Land Management, are managed to protect wilderness character land. These areas remain as de facto wilderness until Congress passes legislation either designating the land as wilderness or releasing the land from wilderness study area consideration.

Although there is broad support for addressing Nevada's wilderness study areas through Federal legislation, there is no consensus on how to do so. Those who advocate for wilderness designation and those who oppose further additions to the wilderness system hold strong and, in may cases, irreconcilable views on this issue.

Those of us who wrote this bill hold different views regarding wilderness. In developing the wilderness component of this bill, Senator ENSIGN, Congressman GIBBONS and I made compromises that will concern all interested parties. Our bill designates more wilderness than some advocates can support, and it falls short of the 2.5 million acres that some wilderness proponents are fighting to designate in Lincoln County alone. In any case, this bill is a critical step toward addressing the outstanding wilderness study issues in the state of Nevada.

Our bill designates wilderness and releases wilderness study areas. It designates 14 wilderness areas, all of which are under the purview of the Bureau of Land Management, totaling roughly 770,000 acres. The bill releases roughly 246,000 acres from wilderness study area status, including four BLM study areas which are released in their entirety and portions of other WSAs throughout Lincoln County. This legislation resolves all but two of the wilderness study areas in Lincoln County. Those two areas, Mt. Grafton WSA and the South Egans WSA are more than half in White Pine County and will be addressed when the Congressional delegation creates a public land bill for White Pine County.

Our bill provides for wilderness management protocols that address the particular circumstances of southern Nevada much as we did in the Clark County Conservation of Public Lands Act of 2002. For example, we explicitly require the Secretary of Interior to allow for the construction, maintenance and replacement of water catchments known as guzzlers when and where that action will enhance wilderness wildlife resources, such as bighorn sheep. In addition, we believe that the use of motor vehicles should be allowed to achieve these purposes when there is no reasonable alternative and it does not require the creation of new roads.

Some wilderness purists argue that these man-made water projects disturb the ecosystems of the Mojave Desert. I believe that guzzlers can actually help restore more natural function to ecosystems that have been forever fragmented by development. These projects, which are privately funded and hand built by dedicated conservationists, have a legitimate place in southern Nevada wilderness and our bill is clear on that point.

In our effort to create a fair wilderness designation, we have benefited from the advice and suggestions of many Nevadans representing a spectrum of views. These advocates include the Nevada Land Users Coalition, the Lincoln County Commission, The Nevada Wilderness Project, The Fraternity of Desert Bighorns, the State of Nevada, Red Rock Audubon, Friends of Nevada Wilderness, Lincoln County residents, Partners in Conservation, ranchers and miners, to name just a few.

Although our compromise does not mirror the specifics of any stakeholder wilderness proposal, it does reflect careful consideration of the constructive suggestions and ideas offered by interested Nevadans. We appreciate their help, and our compromise honors our commitment to listen carefully to all parties. We are also grateful for the help we have received from the Federal land managers in Lincoln County. We look forward to working with them to improve this bill in ways that will make their jobs easier, and enhance the experience of those who use public land.

TITLE III—UTILITY CORRIDORS

The third title of this legislation establishes rights-of-way on Federal land within discrete multi-purpose utility corridors in Lincoln and Clark Counties. By designating these corridors, this bill serves to consolidate the process for establishing utility corridors and rights-of-way on the BLM land in question.

I would like to spend a few moments elaborating on what we do and do not intend this bill to accomplish with respect to utility corridors and rights-of-way.

Last year the Southern Nevada Water Authority and the Lincoln County Commission signed an agreement ending a number of decades-old groundwater disputes in Lincoln County. As a result of this agreement various protests and counter-protests between Southern Nevada Water Authority and Lincoln County were amicably resolved. Subsequent to reaching this agreement, the SNWA and Lincoln County requested that the Nevada Congressional delegation introduce legislation to help put their plans into action.

This bill partly satisfies those requests. It does not, however, provide for everything either the SNWA or Lincoln County Commission wanted. For example, it provides substantially fewer miles of corridor than they requested and focuses specifically on corridors for trunk lines. This is analogous to painting the trunk and major limbs of a tree but not the branches, twigs and leaves. We provide routes for arterial water pipelines, but not for every well pad and secondary feeder.

This legislation relocates an existing utility corridor from the east to the west side of Highway 93 between the Highway 93 Highway 168 junction and the Kane Springs Road Highway 93 junction. This returns the utility corridor to its original location prior to passage of the Florida-Nevada Land Exchange bill. The owners of the private property currently encumbered by the utility corridor will pay the Federal Government fair market value for the appreciation of their property due to this provision.

Our bill stipulates that prior to the designation of any right-of-way provided for in this bill, the proponents must complete a full environmental impact statement pursuant to the provisions of the National Environmental Policy Act of 1969. Our bill is not intended to provide short cuts around Federal environmental laws. Rather it recognizes that one comprehensive environmental statement regarding the impact of water utility corridors and water development in Lincoln County is necessary, but that environmental reviews for the establishment of utility corridors and permission to build pipelines need not be conducted separately.

It is also worth noting that our bill explicitly recognizes the role the State Engineer plays in Nevada water law, and makes it crystal clear that this bill is not intended to influence his decisions regarding water rights adjudications or any of his other important responsibilities.

Finally, our bill authorizes the United States Geological Survey to conduct a hydrogeologic study of the water resources in White Pine County. This study should establish greater certainty regarding the water resources of east-central Nevada, and provide a basis for increasingly well-informed resource decisions in the future.

TITLE IV—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

This bill establishes an off-highway vehicle route in central Lincoln County as the Silver State Off-Highway Vehicle Trail. The Silver State Trail is a combination of existing back-country roads that are currently open and being used.

Sadly, much of rural Nevada is suffering the consequences of uncontrolled off-road vehicle use. Lincoln County is no different. And as more and more Nevadans seek recreation opportunities in Lincoln County, this situation is likely to get worse before it gets better.

Many public land users enjoy backcountry, motorized travel and the vast majority of these citizens treat public lands with respect and care. Some of these responsible stewards helped us design this route.

The Silver State Trail will serve as both a recreational and educational resource. It will be open to the full range of recreationists including off-highway vehicle users and mountain bikers. By providing an appropriate place for off-highway vehicle enthusiasts to explore Lincoln County, this bill will help locally focus off-highway vehicle use on our public lands and educate public land users.

Interested citizens will work with the Bureau of Land Management and local governments to develop a management plan for the Silver State Trail. This plan will increase recreational use and mitigate the negative impacts of such activity. If this Silver State Trail is not established, off-highway vehicle use will not go away; it will just do more damage, in many cases unintended and avoidable damage, to our public lands. I hope this trail will give public land users additional opportunities to develop a deeper and better appreciation for the Mojave Desert and how it can be used and how it must be protected.

TITLE V—STATE AND COUNTY PARK CONVEYANCES

Our bill includes a title dedicated to the creation of parks for Lincoln County and the State of Nevada. In the case of Nevada State Parks, we provide for the conveyance of three parcels of land that are currently leased to the State of Nevada by the Bureau of Land Management. These conveyances are contingent upon agreement between Lincoln County and the State of Nevada supporting the ownership transfers. In the case of Lincoln County, this bill provides for the conveyance of about 18,000 acres for use as open space and public parks. In both cases, if the land is not used for a public park or open space purpose, the land will revert to Federal ownership.

This title of our bill represents a conservation grant package to the State and County that should pay dividends for conservation and recreation in Lincoln County for generations to come.

TITLE VI—TRANSFERS OF JURISDICTION

During the development of this bill we decided against addressing wilderness issues within the Desert National Wildlife Range. This is a major disappointment to some in the environmental community who view the wilderness resources in the Range as some of the most pristine and wild country in the Mojave Desert.

It is clear that significant acreage within the Desert Game Range meets the criteria of the Wilderness Act of 1964, and someday it may yet be recognized as such. In the meantime the areas in question will continue to be managed by the Fish and Wildlife Service according to its mission.

This legislation does convey approximately 8,000 acres from the U.S. Fish and Wildlife Service to the BLM, which will manage it as a utility corridor, and conveys a similar amount of acreage from the BLM to the Fish and Wildlife Service for inclusion in the

Desert National Wildlife Range. These areas lie between State Highway 93 and the Sheep Range and this transfer helps rationalize the Federal land ownership pattern in northern Clark County and southern Lincoln County.

This legislation, the Lincoln County Conservation, Recreation, and Development Act of 2004, is a many-faceted compromise. It is an ambitious bill. It is a complex bill. And it is an important bill for Lincoln County and all of southern Nevada.

I look forward to working with the Chairman and Ranking Member of the Senate Energy and Natural Resources Committee to ensure timely review and passage of this bill.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. GRAHAM of Florida, Mr. GRASSLEY, Mr. DASCHLE, Mr. WARNER, Mrs. CLINTON, Ms. COLLINS, Mr. KENNEDY, Mr. ALEXANDER, Mr. BREAUX, Mr. DEWINE, Mr. LAUTENBERG, Mr. ROBERTS, Mr. CORZINE, Mr. TALENT, Mr. SARBANES, Mr. ALLEN, Mr. DURBIN, Mr. HAGEL, Mr. KERRY, Mrs. DOLE, Mr. CARPER, Mr. SMITH, Mr. NELSON of Nebraska, Mr. COLEMAN, Mr. EDWARDS, Ms. MURKOWSKI, Mr. DAYTON, Mr. DOMENICI, Mrs. MURRAY, Mr. HATCH, Mr. SCHUMER, Mr. HOLLINGS, Mr. BAYH, Mr. ROCKEFELLER, Ms. LANDRIEU, Mr. DODD, Mrs. LINCOLN, Ms. STABENOW, Mr. WYDEN, Mr. JOHNSON, and Mr. HARKIN):

S. 2533. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to announce the introduction of the Ronald Reagan Alzheimer's Breakthrough Act of 2004. I believe the greatest tribute to President Reagan and the Reagan family is a living memorial. That is why I am introducing this legislation with my colleague, Senator KIT BOND. Our legislation makes an all out effort to spark and accelerate breakthroughs for Alzheimer's. The legislation supports research on how to prevent the disease, how to care for people who have it, and initiatives to support those who are caregivers. Let's celebrate President Reagan's life of vigor by attacking Alzheimer's with vigor.

The time to act for real breakthroughs is now. Just last month, Senator BOND and I held a hearing on Alzheimer's research. Expert after expert told us: We are on the verge of amazing breakthroughs; we will lose opportunities if we don't move quickly; we are at a crucial point where NIH funding can make a real difference. Researchers, families, and advocates all said the same thing, we need to do more, and we need to do better. I believe that the answer to that call is passing the Ronald Reagan Alzheimer's Breakthrough Act of 2004.

We are truly on the brink of something that can make a huge difference for American families. We know that families face great difficulties when a loved one has Alzheimer's. There is great emotional cost as well as financial cost. We know that for our public investment we could get new treatments that would prolong a patient's cognitive abilities. Each month we delay admission to a long-term care facility is important to the family and to the taxpayer. Everybody wants a cure; that is our ultimate goal. But even if we keep people at home for 1 or 2 more years, to help them with their memory, and their activities of daily living, it would be an incredible breakthrough.

Our bill would do three things. First, it would strengthen our national commitment to Alzheimer's research. The legislation doubles the funding for Alzheimer's research at the National Institutes of Health from $700 million to $1.4 billion. We need to give researchers the resources they need to make breakthroughs that are on the horizon in diagnosis, prevention and intervention. Also, our bill calls for a National Summit on Alzheimer's that would bring together the best minds to look at priorities for research moving forward.

Second, our bill provides critical support for caregivers. The family is always the first caregiver. The nation saw what a family of prestige and means went through; imagine what other American families are going through. The legislation creates a tax credit for families caring for a loved one with a chronic condition, like Alzheimer's, that would help them pay for prescription drugs, home health care and specialized day care. Also, it helps create one-stop shops across the country so families can find services like respite care, adult day care and training for caregivers.

Third, our legislation promotes News You Can Use for families and physicians. Incredible advances are being made every day. We need to get the word out so families and doctors know the most current information. The Alzheimer's Association has been doing a great job with their ''Maintain Your Brain'' campaign; however, philanthropic efforts of advocacy groups are not a substitute for public policy. Our bill builds on these efforts to create an effective public education strategy.

It is amazing how far we have come. Back in the early 1980s, Alzheimer's was a catch-all term for any kind of memory loss. Today, doctors diagnose Alzheimer's with 90–percent accuracy. Every day NIH is making progress to identify risks, looking at new kinds of brain scans for appropriate detection, and understanding what this disease does to the brain.

How did we get this far, this fast? With a bipartisan commitment of the authorizers and appropriators. Together, we have been working to increase the funding for the National Institute on Aging. In 1998 the National Institute on Aging was funded at approximately $500 million. Thanks to our bipartisan effort, it is at $1 billion. Now is the time to do more.

My own dear father had Alzheimer's. I remember when I would go to visit him. It didn't matter that I was a United States Senator; it didn't matter that I could get Nobel Prize winners on the phone. The research and treatments didn't exist for my father, for President Reagan, or for more than 4 million families. Alzheimer's is an All American disease that affected an All American President. Now we need an All American effort to speed up the breakthroughs so no family has to go through the long goodbye.

I urge my colleagues to support this bill and move swiftly to enact it into law.

Mr. BOND. Mr. President, I rise today to speak of the life, leadership and the truly remarkable legacy of the 40th President of the United States, Ronald Reagan.

President Reagan was a great communicator with a powerful message. He preached the gospel of hope, freedom and opportunity not just for America but for the world. Reagan was a genuinely optimistic person who brought that spirit of optimism and hope to the American people and to enslaved peoples around the world. He was a man who took disappointment and moved on. He was a man of unfailing good humor, care and thoughtfulness. Even people who disagreed with his policies across the board could not help but like him.

In the U.S., his policies encouraged the return of more tax dollars to average Americans and unfettered entrepreneurship to create jobs and build the economy. Reagan's strong military opposition to the Soviet Union helped bring down the walls that harbored communism and tyranny throughout Eastern Europe and much of the world.

In a letter to the American people in 1994 Ronald Reagan announced he was one of the millions of Americans with Alzheimer's disease. One of the most courageous things Ronald and Nancy Reagan did was to announce publicly that he had Alzheimer's disease. Through their courage and commitment, the former President and his wife, Nancy, changed the face of Alzheimer's disease by increasing public awareness of the disease and of the need for research into its causes and prevention.

In honor of Ronald Reagan, today my colleague Senator MIKULSKI and I are introducing the Ronald Reagan Alzheimer's Breakthrough Act of 2004. This bill will increase research for Alzheimer's and increase assistance to Alzheimer, patients and their families. This bill will serve as a living tribute to President Reagan and will: 1. double funding for Alzheimer's Research at the National Institute of Health; 2. increase funding for the National Family

Caregiver Support Program from $153 million to $250 million; 3. reauthorize the Alzheimer's Demonstration Grant Program that provides grants to states to fill in gaps in Alzheimer's services such as respite care, home health care, and day care; 4. authorize $1 million for the Safe Return Program to assist in the identification and safe, timely return of individuals with Alzheimer's disease and related dementias who wander off from their caregivers; 5. Establish a public education campaign to educate members of the public about prevention techniques that can maintain their brain'' as they age, based on the current research being undertaken by NIH; 6. establish a $3,000 tax credit for caregivers to help with the high health costs of caring for a loved one at home; and 7. encourage families to prepare for their long term needs by providing an above-the-line tax deduction for the purchase of long term care insurance.

Ironically it was President Reagan who drew national attention to Alzheimer's for the very first time when he launched a national campaign against Alzheimer's disease some 22 years ago.

In 1983 President Reagan proclaimed November as National Alzheimer's Disease Month. In his proclamation President Reagan said ''the emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves special attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat is successfully. Right now, research is the only hope for victims and families.''

Today, approximately 4.5 million Americans have Alzheimer's, with annual costs for this disease estimated to exceed $100 billion. Today there are more than 4.5 million people in the United States with Alzheimer's, and that number is expected to grow by 70 percent by 2030 as baby boomers age.

In my home State of Missouri, alone, there are over 110,000 people with Alzheimer's disease. Based on population growth, unless science finds a way to prevent or delay the onset of this disease, that number will increase to over 130,000 by 2025—that is an 18 percent increase.

In large part due to President Reagan, there has been enormous progress in Alzheimer research—95 percent of what we know we discovered during the past 15 years. There is real potential for major breakthroughs in the next 10 years. Baby boomers could be the first generation to face a future without Alzheimer's disease if we act now to achieve breakthroughs in science.

President and Mrs. Reagan have been leading advocates in the fight against Alzheimer's for more than 20 years, and million of American have been helped by their dedication, compassion and effort to support caregivers, raise public awareness about Alzheimer's disease and increase of nation's commitment to Alzheimer's research.

This bill will serve as a living tribute to President Reagan and will offer hope to all those suffering from the disease today. As we celebrate the life and legacy of Ronald Reagan, we are inspired by his legendary optimism and hope, and today we move forward to confront this expanding public health crisis with renewed vigor, passion, and compassion.

Mr. GRAHAM of Florida. Mr. President, the death last week of President Ronald Reagan has focused our attention on the ravages that Alzheimer's inflicts not only on the person with the disease, but the entire family.

Alzheimer's disease currently affects 4.5 million Americans. As the baby boom generation ages that number is expected to explode. Without advances in prevention, diagnosis and treatment, we can not only expect a growing emotional toll on those suffering from the disease and their families, but also a significant drain on the already strained resources of the Medicare and Medicaid programs.

However, there is reason to be hopeful. We now know that Alzheimer's Disease is not a normal part of aging, and that there may be ways to prevent the disease. Scientists are beginning to focus on the protective effects of mental, physical and social activity, and believe that following a diet and exercise program similar to that for people with heart disease may delay the onset of Alzheimer's.

The legislation will accelerate important prevention research, in part by putting the National Institute of Aging Alzheimer's Disease Prevention Initiative into law.

In addition, this legislation includes two important changes to our tax laws that would provide greater Federal assistance to those who bear the burden of assisting patients with Alzheimer's and other conditions requiring long-term care. Over 13 million people in the United States need help with basic activities of daily living such as eating, getting in and out of bed, getting around inside, dressing, bathing and using the toilet. While many Americans believe that long-term care is an issue primarily affecting seniors, the reality is that 5.2 million adults between the ages of 18–64 and over 450,000 children need long-term care services today. These numbers are expected to double as the baby boom generation begins to retire.

Most long-term care is provided at home or in the community by informal caregivers. However, in situations where individuals must enter nursing homes or other institutional facilities, costs are paid largely out-of-pocket. Such a financing structure jeopardizes the retirement security of many Americans who have worked hard their entire lives.

The Ronald Reagan Alzheimer's Breakthrough Act provides two important tools to help Americans and their families meet their immediate and future long-term care needs—an above-the-line income tax deduction for the purchase of long-term care insurance and a caregiver tax credit.

First, the bill provides an above-the-line deduction for long-term care premiums to make long-term care insurance more affordable for a greater number of Americans. Today, such premiums are deductible, but the availability of the deduction is severely limited. First, the current deduction is available only for the thirty percent of taxpayers who itemize their deductions. That leaves the remaining seventy percent of taxpayers with absolutely no benefit. Second, the deduction is limited to an amount, which in addition to other medical expenses exceeds 7.5 percent the taxpayers adjusted gross income. This AGI limit further decreases the utilization of the current deduction.

Our legislation removes these restrictions and makes the deduction for long-term care premiums available to all taxpayers.

In order to provide sufficient incentives for families to maintain long-term care coverage, the deduction allowed under this bill increases the longer the policy is maintained. The deduction starts at 60 percent for premiums paid during the first year of coverage and gradually increases each year thereafter until the deduction reaches 100 percent after at least four years of continuous coverage. This schedule is accelerated for those age 55 or older. For those individuals, the deduction starts at 70 percent for the first year and increases to 100 percent after at least two years of continuous coverage.

Second, the bill provides an income tax credit for taxpayers with long-term care needs. The credit is phased in over 4 years, starting at $1,000 for 2003 and eventually reaching $3,000. To target assistance to those most in need, the credit phases out for married couples with income above $150,000 $75,000 for single taxpayers)''

The bill also updates the requirements that long-term care policies must meet in order to qualify for the income tax deduction. These updated requirements reflect the most recent model regulations and code issued by the National Association of Insurance Commissioners.

I urge my colleagues to join Senators MIKULSKI, BOND, GRASSLEY, CLINTON, WARNER and me in cosponsoring this legislation.

By Mr. GRAHAM of Florida:

S. 2534. A bill to amend title 38, United States Code, to extend and enhance benefits under the Montgomery GI Bill, to improve housing benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRAHAM of Florida. Mr. President, as Ranking Member of the Committee on Veterans' Affairs, I urge my colleagues to support the legislation I

introduce today, the proposed ''G.I. Bill for the 21st Century,'' a bill to improve home-buying and education options for America's veterans.

We have reached a milestone in American history. The pending measure is a fitting tribute to our nation's veterans as we celebrate the 60th anniversary of the Servicemen's Readjustment Act of 1944, better known as the ''G.I. Bill.'' The G.I. Bill, for veterans of World War II, is recognized as one of the most important acts of Congress.

The G.I. Bill ensured that all who sacrificed through service would not be penalized as a result of their war service and upon their return would be aided in reaching the positions which they might have occupied had their lives not been interrupted by war. This legendary piece of legislation alleviated postwar troubles and anticipated economic depression. During the past six decades, this government has invested billions of dollars in education and training for veterans. America has received a return on its investments many times over, resulting in a better educated, better trained, and dramatically changed society. In fact, many Members of this Senate have benefited from its far-reaching impact. In addition to its provisions for education and training, the G.I. Bill allowed millions of veterans the opportunity to purchase homes, transforming the majority of Americans from renters to homeowners.

The G.I. Bill not only eased the transition of servicemen and women back into civilian life, it transformed American society. The social and economic class structure of the United States was forever changed and the boundaries that once encompassed class status were blurred. The bill expanded opportunities for lower- and middle-class families to own their own homes and to attend college. This expansion led to the evolution of the higher education system and paved the way for future individuals from all cultural and economic backgrounds to have access to higher education. The 7.8 million men and women who used their G.I. Bill benefits cultivated a new and progressive workforce that placed more people in professional career roles, especially in critical-need areas such as education, engineering, and health care.

We must continue to ensure that veterans' education benefits change to meet the needs of veterans and their families who use them. We should continue with the original intent of the G.I. Bill to increase the ability of our veterans to acquire higher education. We have servicemembers fighting the war on terrorism world-wide and a whole new generation of combat veterans being created, as was the situation during World War II. We should make every effort to accommodate the educational needs of our veterans, and these changes to the Montgomery G.I. Bill, known as MGIB, are an important step in doing so.

''The G.I. Bill for the 21st Century'' would exclude MGIB benefits from computation as income when calculating campus-based student financial aid, such as Perkins Loans. This, importantly, draws the distinction between a benefit that has been earned, and paid for, by the veteran, and other types of income. This end is furthered by allowing the individual applying for financial aid to subtract $1200 from the expected family contribution. This $1200 represents the money that the individual paid to participate in the MGIB program. Clearly it should not be counted as part of the veteran's income to pay for school. This legislation is in keeping with legislation that I introduced, and that became law, in 1998 that excluded veterans education benefits from being considered as income in the computation of some forms of financial aid.

This legislation also offers an opportunity for enrollment in the MGIB education program for servicemembers who participated in or were eligible to participate in the post-Vietnam era educational assistance program, known as VEAP. Congress created an enrollment window for VEAP-eligible servicemembers to convert to the far more comprehensive MGIB. However, some servicemembers were not able to participate because of financial reasons or did not learn of the enrollment period in time to make the deadline. These individuals have contacted Members of Congress to create another window. As my colleagues know, education can be the key to a successful transition to civilian life. This bill creates a one-year window and requires the servicemember to pay $2700, which was the VEAP contribution.

I have spoken with many veterans and widows of veterans who were not able to immediately go to school. By the time they enrolled, their benefits were expiring. That is why this legislation maintains the 10-year delimiting period for veterans, surviving spouses, and dependents that enroll in training programs, which does not begin to toll until the individual begins the program of study. This would allow eligible participants to utilize the benefit when best for them.

In keeping with my commitment to evolve the educational assistance benefit to meet the needs of those using it, the bill that I introduce today would make national admissions exams such as the SAT, GRE, LSAT and GMAT, and national exams for credit at institutions of higher education, such as the AP exam covered by MGIB. This would greatly aid the individuals who have been absent from an academic setting for a long period of time and would go a long way in preparing them for their educational endeavors.

As we face the greatest mobilization of troops since World War II, it is only fitting that we act in the spirit of the G.I. Bill to dramatically increase the ability of our veterans and their families to buy homes in competitive housing markets throughout the nation. This bill would change the method by which Congress establishes the maximum amount veterans may borrow through the VA home loan guaranty program.

This legislation would index the maximum VA guaranty loan amount at 100 percent of the Freddie Mac conforming loan limit. Under the current system, a specific dollar figure for the VA maximum loan amount is set by legislation. The maximum loan limit has not been changed since 2001. The current maximum guaranty is $60,000, which allows veterans to secure loans to purchase homes costing up to $240,000. Since that time, the Freddie Mac conforming loan rate has increased by over 18 percent. Sadly, the VA loan limit has not kept pace and currently represents only 74 percent of the Freddie Mac conforming loan limit. The change would also allow for annual adjustments to the amounts available to veterans, without annual legislation, ensuring that the VA home loan guaranty benefit remain viable in competitive housing markets.

In 1999, Congress passed legislation that changed the Federal Housing Administration (FHA) Loan Program and permanently indexed FHA loans at 87 percent of the Freddie Mac conforming loan limit. Why should we penalize the buying power of our veterans by maintaining a system that has failed to keep pace with annual increases in housing costs throughout the United States? To recognize this service and sacrifice, it only seems right that the loan limit available to veterans be set at a higher rate than the FHA limit. By indexing the VA loan limit at 100 percent, the current VA maximum loan amount would increase from $240,000 to $333,700 and give our veterans greater buying power in a national housing market where the cost of a home continues to rise.

In addition, the Congressional Budget Office, known as CBO, has informally projected that from 2005 to 2009 this increase will help over 10,000 new buyers participate in the VA Loan Guaranty Program. The Budget Office has also projected that the increase in new veteran buyers would generate savings of more than $200 million over the next five years. These savings will then be passed on to our veterans in the form of increased education and training opportunities.

We must fight to ensure that veterans' education benefits are as flexible as those who left their homes and served freedom around the globe at their country's call to service. And, in keeping with the original intent of the G.I. Bill, raising the VA home loan guaranty limit would help more veterans realize the American dream of owning a home of their own. I urge my colleagues to join me in supporting these worthwhile efforts.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Montgomery GI Bill for the 21st Century Act''.

SEC. 2. EXCLUSION OF BASIC PAY CONTRIBUTIONS FOR PARTICIPATION IN BASIC EDUCATIONAL ASSISTANCE IN CERTAIN COMPUTATIONS ON STUDENT FINANCIAL AID.

(a) EXCLUSION.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 3020A. Exclusion of basic pay contributions in certain computations on student financial aid

''(a) IN GENERAL.—The expected family contribution computed under section 475, 476, or 477 of the Higher Education Act of 1965 (20 U.S.C. 1087oo, 1087pp, 1087qq) for a covered student shall be decreased by $1,200 for the applicable year.

''(b) DEFINITIONS.—In this section:

''(1) The term 'academic year' has the meaning given the term in section 481(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(2)).

''(2) The term 'applicable year' means the first academic year for which a student uses entitlement to basic educational assistance under this chapter.

''(3) The term 'covered student' means any individual entitled to basic educational assistance under this chapter whose basic pay or voluntary separation incentives was or were subject to reduction under section 3011(b), 3012(c), 3018(c), 3018A(b), or 3018B(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3020 the following new item:

''3020A. Exclusion of basic pay contributions in certain computations on student financial aid.''.

SEC. 3. OPPORTUNITY FOR ENROLLMENT IN BASIC EDUCATIONAL ASSISTANCE PROGRAM OF CERTAIN INDIVIDUALS WHO PARTICIPATED OR WERE ELIGIBLE TO PARTICIPATE IN POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE PROGRAM.

(a) OPPORTUNITY FOR ENROLLMENT.—Section 3018C(e) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting ''or (3)'' after ''paragraph (2)'';

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(3) by inserting after paragraph (2) the following new paragraph (3):

''(3) A qualified individual referred to in paragraph (1) is also an individual who meets each of the following requirements:

''(A) The individual is a participant in the educational benefits program under chapter 32 of this title as of the date of the enactment of the Montgomery GI Bill for the 21st Century Act, or was eligible to participate in such program, but had not participated in that program or any other educational benefits program under this title, as of that date.

''(B) The individual meets the requirements of subsection (a)(3).

''(C) The individual, when discharged or released from active duty, is discharged or released therefrom with an honorable discharge.'';

(4) in paragraph (5), as so redesignated, by striking ''paragraph (3)(A)(ii)'' and inserting ''paragraph (4)(A)(ii)''; and

(5) in paragraph (6), as so redesignated, by inserting '', or individuals eligible to participate in that program who have not participated in that program or any other educational benefits program under this title,'' after ''chapter 32 of this title''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 3018C. Opportunity to enroll: certain VEAP participants; certain individuals eligible for participation in VEAP''.

(2) The table of sections at the beginning of chapter 30 of such title is amended by striking the item relating to section 3018C and inserting the following new item:

''3018C. Opportunity to enroll: certain VEAP participants; certain individuals eligible for participation in VEAP.''.

SEC. 4. COMMENCEMENT OF 10-YEAR DELIMITING PERIOD FOR VETERANS, SURVIVORS, AND DEPENDENTS WHO ENROLL IN TRAINING PROGRAM.

(a) VETERANS.—Section 3031 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''through (g), and subject to subsection (h)'' and inserting ''through (h), and subject to subsection (i)'';

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

''(h) In the case of an individual eligible for educational assistance under this chapter who, during the 10-year period described in subsection (a) of this section, enrolls in a program of training under this chapter, the period during which the individual may use the individual's entitlement to educational assistance under this chapter expires on the last day of the 10-year period beginning on the first day of the individual's pursuit of such program of training.''.

(b) ELIGIBLE CHILDREN.—Subsection (a) of section 3512 of such title is amended—

(1) in paragraph (6)(B), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(8) if the person enrolls in a program of special restorative training under subchapter V of this chapter, such period shall begin on the first day of the person's pursuit of such program of special restorative training.''.

(c) ELIGIBLE SURVIVING SPOUSES.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

''(3) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in section 3501(a)(1)(B) or (D)(ii) of this title) who, during the 10-year period described in paragraph (1) of this subsection, enrolls in a program of special restorative training under subchapter V of this chapter may be afforded educational assistance under this chapter during the 10-year period beginning on the first day of the individual's pursuit of such program of special restorative training.''.

SEC. 5. AVAILABILITY OF EDUCATION BENEFITS FOR PAYMENT FOR NATIONAL ADMISSIONS EXAMS AND NATIONAL EXAMS FOR CREDIT AT INSTITUTIONS OF HIGHER EDUCATION.

(a) COVERED EXAMS.—Sections 3452(b) and 3501(a)(5) of title 38, United States Code, are each amended by adding at the end the following new sentence: ''Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the SAT, LSAT, GRE, and GMAT exams) and national tests providing an opportunity for course credit at institutions of higher learning (such as the AP exam).''.

(b) AMOUNT OF PAYMENT.—

(1) CHAPTER 30.—Section 3032 of such title is amended by adding at the end the following new subsection:

''(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

(2) CHAPTER 32.—Section 3232 of such title is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

(3) CHAPTER 34.—Section 3482 of such title is amended by adding at the end the following new subsection:

''(i)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

(4) CHAPTER 35.—Section 3532 of such title is amended by adding at the end the following new subsection:

''(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of

higher learning described in section 3501(a)(5) of this title is the amount of the fee charged for the test.

''(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

''(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.''.

SEC. 6. INCREASE IN MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES AND ANNUAL INDEXING OF AMOUNT.

(a) MAXIMUM LOAN GUARANTY BASED ON 100 PERCENT OF FREDDIE MAC CONFORMING LOAN RATE.—Section 3703(a)(1) of title 38, United States Code, is amended by striking ''$60,000'' each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting ''the maximum guaranty amount (as defined in subparagraph (C))''.

(b) DEFINITION.—Such section is further amended by adding at the end the following new subparagraph:

''(C) In this paragraph, the term 'maximum guaranty amount' means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 380—HONORING THE DETROIT PISTONS ON WINNING THE NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP ON JUNE 15, 2004.

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 380

Whereas the Detroit Pistons finished second in the Central Division of the Eastern Conference and won the National Basketball Association (NBA) World Championship for the first time since winning back to back Championships in 1989 and 1990;

Whereas the Detroit Pistons is the first Eastern Conference team to win the Championship since 1998;

Whereas the Detroit Pistons by defeating the heavily-favored Los Angeles Lakers 4 games to 1 showed grit, determination, discipline, and unity, thereby securing their third National Basketball Association World Championship;

Whereas the Detroit Pistons completed an incredible season with strong performances from many key players, including Finals Most Valuable Player Chauncey Billups, two-time Defensive Player of the Year Ben Wallace, a new head coach in Larry Brown and savvy front office executives such as Joe Dumars;

Whereas Detroit Pistons owner Bill Davidson became the first owner to win an NBA and WNBA championship, as well as the Stanley Cup championship, in the span of 12 months;

Whereas President of Basketball Operations Joe Dumars built a cohesive championship team through smart draft choices, key free agent signings and bold trades, including the mid-season acquisition of Rasheed Wallace, a vital part of the Pistons' impenetrable frontline;

Whereas Detroit Pistons Head Coach Larry Brown, the oldest coach to win an NBA Championship, became the first coach to win both an NBA and NCAA championship;

Whereas each member of the Detroit Pistons roster, including Chauncey Billups, Elden Campbell, Tremaine Fowlkes, Darvin Ham, Richard Hamilton, Lindsey Hunter, Mike James, Darko Milicic, Mehmet Okur, Tayshaun Prince, Ben Wallace, Rasheed Wallace, Corliss Williamson, made meaningful contributions to the success of the basketball team and proved once again that the whole can be greater than the sum of its parts;

Whereas Detroit Pistons fans made a meaningful contribution to the success of their basketball team through their energy and passion which was on display throughout the regular season and playoffs at the Palace at Auburn Hills;

Whereas the Detroit Pistons became the first team in NBA Finals history to win games 3, 4, and 5 on their home court since the NBA returned to its current format in 1985;

Whereas in honor of the Detroit Pistons' championship, the Palace of Auburn Hills is officially changing its address to Four Championship Drive; and

Whereas the Detroit Pistons have demonstrated great strength, skill, and perseverance during the 2003–2004 season and have made the entire State of Michigan proud: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Detroit Pistons on winning the 2004 National Basketball Association Championship and recognizes all the players, coaches, support staff, and fans who were instrumental in this achievement; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Detroit Pistons for appropriate display.

SENATE RESOLUTION 381—RECOGNIZING THE ACCOMPLISHMENTS AND SIGNIFICANT CONTRIBUTIONS OF RAY CHARLES TO THE WORLD OF MUSIC

Mr. NELSON of Florida (for himself, Mr. MILLER, Mr. CHAMBLISS, Mr. GRAHAM of Florida, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 381

Whereas Ray Charles, born Ray Charles Robinson on September 23, 1930, to Bailey and Aretha Robinson in Albany, Georgia, was one of the greatest musical artists of the United States;

Whereas Ray Charles, who as an infant moved with his family to Greenville, Florida, and, after suffering an illness that left him blind, attended the St. Augustine School for the Deaf and Blind from 1937 to 1945, where he learned not only how to read Braille, but how to write music and play the piano, trumpet, clarinet, and alto saxophone;

Whereas during the course of his 58-year career, Ray Charles defied easy classification, as his music spanned all genres, and many talented musicians from the world of rhythm and blues, popular music, jazz, gospel, country, and rock and roll have noted his strong influence on their careers;

Whereas his talent has long been recognized by the recording industry and his many fans, as he has received 12 Grammy Awards, with the first in 1960 and the most recent award in 1993, and had 32 of his songs reach the national Billboard's top 40 pop charts between 1957 and 1971;

Whereas his influence and contributions to the world are evidenced by the numerous honors he has received from organizations, and institutions, including: the Blues Foundation's Hall of Fame, Rock and Roll Hall of Fame, Songwriters Hall of Fame, Georgia Music Hall of Fame, Florida Artists Hall of Fame, a Lifetime Achievement Award as part of the Black Achievement Awards television show sponsored by Johnson Publishing Company, a star on the Hollywood Walk of Fame, the Helen Keller Personal Achievement Award from the American Foundation for the Blind, and an honorary doctorate of fine arts from the University of South Florida in Tampa;

Whereas Ray Charles has received praise from Republican and Democratic Administrations with the adoption of ''Georgia on My Mind'' as the Georgia State song in 1979, an invitation in 1984 to perform at the Republican National Convention and President Reagan's inaugural ball in 1985, recognition in 1986 as a legend by the Kennedy Center Honors, and the presentation of a National Medal of Arts by President Clinton in 1993;

Whereas Ray Charles was a great humanitarian and activist who provided financial support to Dr. Martin Luther King, Jr., during the civil rights struggle, and joined with other recording artists to record ''We Are the World'', a project that brought world awareness and financial assistance to the millions dying from starvation in Africa;

Whereas during the course of his life he persevered, overcoming the tremendous obstacles that he encountered in the early stages of his career due to racism and prejudice because of his blindness, to become one of the greatest and defining musical talents of all time; and

Whereas this great American, Ray Charles, died on June 10, 2004: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Ray Charles as one of the greatest American musicians of all time;

(2) honors Ray Charles for his contributions to music, culture, community, and the United States;

(3) offers its appreciation to Ray Charles for sharing his musical gifts with the world; and

(4) extends its deepest sympathy to the family and the loved ones of Ray Charles.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3452. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

TEXT OF AMENDMENTS

SA 3452. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the appropriate place insert the following:

(a) STATEMENTS OR ENTRIES GENERALLY.—Section 1001 of title 18, United States Code, is amended by adding at the end the following:

''(d) JURISDICTION.—There is extra territorial Federal jurisdiction over an offense under this section.

''(e) PROSECUTION.—A prosecution for an offense under this section may be brought—

''(1) in accordance with chapter 211 of this title; or

''(2) in any district where any act in furtherance of the offense took place.''.

(b) MAJOR FRAUD AGAINST THE UNITED STATES.—Section 1031 of title 18, United States Code, is amended by adding at the end the following:

''(i) JURISDICTION.—There is extra territorial Federal jurisdiction over an offense under this section.

''(j) PROSECUTION.—A prosecution for an offense under this section may be brought—

''(1) in accordance with chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

NOTICE OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations on the Committee on Governmental Affairs will hold 2 days of hearings entitled ''Buyer Beware: The Danger of Purchasing Pharmaceuticals Over the Internet.'' The Subcommittee hearings will examine the extent to which consumers can purchase pharmaceuticals over the Internet without a medical prescription, the importation of pharmaceuticals into the United States, and whether the pharmaceuticals from foreign sources are counterfeit, expired, unsafe, or illegitimate. In addition, the Subcommittee hearings will examine the extent to which U.S. consumers can purchase dangerous and often addictive controlled substances from Internet pharmacy websites and the procedures utilized by the Food and Drug Administration, the Drug Enforcement Administration, the Bureau of Customs and Border Protection, and private stakeholders to address these drug safety issues.

The Subcommittee hearings are scheduled for Thursday, June 17 and Thursday, June 24, at 9 a.m. each day, in Room 342 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, June 23rd, 2004, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the grazing programs of the Bureau of Land Management and the Forest Service, including permit renewals, recent and proposed changes to grazing regulations and related issues. The hearing will also examine the Wild Horse and Burro program, as it relates to grazing, and the Administration's proposal for sage-grouse habitat conservation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on June 16, 2004, at 9:30 a.m. on The VOIP Regulatory Freedom Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, June 16 at 11:30 a.m. to consider pending calendar business.

Agenda

Agenda Item 1: Nomination of Suedeen G. Kelly to be a Member of the Federal Energy Regulatory Commission.

Agenda Item 2: S. 155—A bill to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation.

Agenda Item 3: S. 180—A bill to establish the National Aviation Heritage Area, and for other purposes.

Agenda Item 5: S. 211—A bill to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

Agenda Item 6: S. 323—A bill to establish the Atchafalaya National Heritage Area, Louisiana.

Agenda Item 10: S. 1241—A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes.

Agenda Item 14: S. 1467—A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes.

Agenda Item 15: S. 1521—A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

Agenda Item 17: S. 1727—A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

Agenda Item 18: S. 1957—A bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

Agenda Item 19: S. 2046—A bill to authorize the exchange of certain land in Everglades National Park.

Agenda Item 22: S. 2180—A bill to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

Agenda Item 23: S. 2243—A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

Agenda Item 24: S. 2319—A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

Agenda Item 29: H.R. 1648—To authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District.

Agenda Item 30: H.R. 1658—To amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

Agenda Item 31: H.R. 1732—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes.

Agenda Item 32: H.R. 3209—To amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, June 16, 2004, at 11 a.m., to hear testimony on Strengthening Regulations and Oversight to Better Ensure Agriculture Financing Integrity.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 16, 2004 at 2 p.m. to hold a Nominations Hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 16, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a Business Meeting on pending committee matters, to be followed immediately by an oversight hearing on the implementation in Native American communities of the ''No Child Left Behind Act.''

Mr. President, I ask unanimous consent that the Committee on Indian Affairs also be authorized to meet again on Wednesday, June 16, 2004, at 2 p.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1996, the Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, June 16, 2004 at 10 a.m., on ''Judicial Nominations'' in the Dirksen Office Building, Room 226.

Witness List:

Panel I: Senators.

Panel II: Richard A. Griffin, to be United States Circuit Judge for the Sixth Circuit; and David W. McKeague, to be United States Circuit Judge for the Sixth Circuit.

Panel III: Virginia Maria Hernandez Covington, to be United States District Judge for the Middle District of Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Sandra Wilkinson, a detailee from the Department of Justice assigned to the Judiciary Committee, be granted floor privileges for the duration of the debate on the Leahy amendment with regard to war profiteering.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Roberto Alvarez from my office during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent, on behalf of Senator BINGAMAN, that during the pendency of the DOD authorization bill, S. 2400, Sherrick Roanhorse and Rebecca Wilcox, interns on Senator BINGAMAN's staff, be given the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader pursuant to Public Law 107–252, Title II, Section 214, appoints the following individual to serve as a member of the Election Assistance Board of Advisors: Wesley R. Kliner, Jr. of Tennessee.

The Chair, on behalf of the Majority Leader pursuant to Public Law 108–176, Section 411(b)(1)(B), appoints the following individual to serve as a member of the National Commission of Small Community Air Service: Philip H. Trenary of Tennessee.

REMOVAL OF INJUNCTION OF SECRECY

Mr. SESSIONS. Mr. President, in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following treaty transmitted to the Senate on June 16, 2004, by the President of the United States:

Agreement with Canada on Pacific Hake/Whiting (Treaty Document 108–24).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting (the ''Agreement''), done at Seattle, November 21, 2003. I am also enclosing, for the information of the Senate, the report of the Secretary of State on the Agreement.

The Agreement establishes, for the first time, agreed percentage shares of the transboundary stock of Pacific hake, also known as Pacific whiting. It also creates a process through which U.S. and Canadian scientists and fisheries managers will recommend the total catch of Pacific hake each year, to be divided by a set percentage formula. Stakeholders from both countries will have significant input into this process.

The Agreement not only allows the Parties to redress the overfishing that has led to a recent decline in stock levels, but also provides long-term stability for U.S. fishers and processors and a structure for future scientific collaboration.

The recommended legislation necessary to implement the Agreement will be submitted separately to the Congress.

I recommend that the Senate give favorable consideration to this Agreement and give its advice and consent to ratification at an early date.

RECOGNIZING THE ACCOMPLISHMENTS AND CONTRIBUTIONS OF RAY CHARLES TO THE WORLD OF MUSIC

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 381, introduced earlier today by Senator NELSON of Florida.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 381) recognizing the accomplishments and significant contributions of Ray Charles to the world of music.

There being no objection, the Senate proceeded to consider the resolution.

Mr. NELSON of Florida. Mr. President, today I rise on behalf of myself, the Senior Senator from Florida, BOB GRAHAM, and my esteemed colleagues from Georiga, Senators ZELL MILLER and SAXBY CHAMBLISS, to commend to my colleagues a resolution commemorating Ray Charles for his great contributions to the world of music and culture.

It is with great sadness that as our Nation mourned the death of former President Reagan, we received the news that this great and talented musician, Ray Charles, succumbed to liver disease at age 73.

Ray Charles was born in Albany, GA on September 23, 1930, but he made Florida his home for many years. As a baby he moved with his family to Greenville, FL where he developed an early appreciation for music. There are stories from friends and family telling how at age 3 he began playing the piano, and showed a strong interest in music.

Ray Charles wasn't born blind, but lost his sight to a childhood illness. His mother, Aretha Robinson, enrolled him in the St. Augustine School for the Deaf and Blind, where he leaned not only how to read and write Braille, but learned how to write music, and plan the piano, clarinet, trumpet and saxophone. In the late 1940s, after graduating from St. Augustine's, Ray Charles left Florida and began to work in honing his craft full time. And, as they say, the rest is history.

Ray Charles began recording in the 1950's, experiencing success on the musical charts that culminated in his winning the first of many Grammy Music Awards in 1960 for Georgia on My Mind. This great song was adopted in 1979 by the State of Georgia as their State song.

Ray Charles received eleven additional Grammy Awards, with the last of these awards coming in 1993.

The list of honors he has received in his lifetime is impressive and reflects the impact that he has had on American music and culture. His music cannot be categorized or limited to one genre, which cannot be said of many artists. He was influenced by all types of music, and his music in turn influenced all types of artists—from rhythm and blues to country artists to rock and roll.

Ray Charles's story is an American story, and one that should serve as an inspiration to us all; a story that shows how a strong spirit can overcome the greatest of obstacles.

Ray Charles once said that his family was so poor that ''nothing was below us but the floor.'' Despite this poor beginning, and the racism and prejudice he undoubtedly faced as a blind black man during this time, he triumphed.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 381) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 381

Whereas Ray Charles, born Ray Charles Robinson on September 23, 1930, to Bailey and Aretha Robinson in Albany, Georgia, was one of the greatest musical artists of the United States;

Whereas Ray Charles, who as an infant moved with his family to Greenville, Florida, and, after suffering an illness that left him blind, attended the St. Augustine School for the Deaf and Blind from 1937 to 1945, where he learned not only how to read Braille, but how to write music and play the piano, trumpet, clarinet, and alto saxophone;

Whereas during the course of his 58-year career, Ray Charles defied easy classification, as his music spanned all genres, and many talented musicians from the world of rhythm and blues, popular music, jazz, gospel, country, and rock and roll have noted his strong influence on their careers;

Whereas his talent has long been recognized by the recording industry and his many fans, as he has received 12 Grammy Awards, with the first in 1960 and the most recent award in 1993, and had 32 of his songs reach the national Billboard's top 40 pop charts between 1957 and 1971;

Whereas his influence and contributions to the world are evidenced by the numerous honors he has received from organizations, and institutions, including: the Blues Foundation's Hall of Fame, Rock and Roll Hall of Fame, Songwriters Hall of Fame, Georgia Music Hall of Fame, Florida Artists Hall of Fame, a Lifetime Achievement Award as part of the Black Achievement Awards television show sponsored by Johnson Publishing Company, a star on the Hollywood Walk of Fame, the Helen Keller Personal Achievement Award from the American Foundation for the Blind, and an honorary doctorate of fine arts from the University of South Florida in Tampa;

Whereas Ray Charles has received praise from Republican and Democratic Administrations with the adoption of ''Georgia on My Mind'' as the Georgia State song in 1979, an invitation in 1984 to perform at the Republican National Convention and President Reagan's inaugural ball in 1985, recognition in 1986 as a legend by the Kennedy Center Honors, and the presentation of a National Medal of Arts by President Clinton in 1993;

Whereas Ray Charles was a great humanitarian and activist who provided financial support to Dr. Martin Luther King, Jr., during the civil rights struggle, and joined with other recording artists to record ''We Are the World'', a project that brought world awareness and financial assistance to the millions dying from starvation in Africa;

Whereas during the course of his life he persevered, overcoming the tremendous obstacles that he encountered in the early stages of his career due to racism and prejudice because of his blindness, to become one of the greatest and defining musical talents of all time; and

Whereas this great American, Ray Charles, died on June 10, 2004: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Ray Charles as one of the greatest American musicians of all time;

(2) honors Ray Charles for his contributions to music, culture, community, and the United States;

(3) offers its appreciation to Ray Charles for sharing his musical gifts with the world; and

(4) extends its deepest sympathy to the family and the loved ones of Ray Charles.

ORDERS FOR THURSDAY, JUNE 17, 2004

Mr. SESSIONS. Mr. President, on behalf of the majority leader, BILL FRIST, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, June 17. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill; provided further, that Senator BOND be recognized in order to call up the Bond-Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Mr. President, tomorrow the Senate will resume the Defense authorization bill. Under the previous order, when we resume consideration of the bill tomorrow morning, the Bond-Harkin energy employee amendment will be the pending business. It is the hope of the bill managers that we can adopt the amendment without a rollcall vote.

For the remainder of the day, we will continue the consideration of amendments to the bill. There is another amendment that I will offer related to death benefits, and there are several missile defense amendments we hope to consider early in the day. Senators should expect rollcall votes throughout the day as the Senate continues to make progress on the bill. As a reminder, a cloture motion was filed on the Defense bill.

In addition, there will be additional votes on judicial nominations during Thursday's session as well.

Mr. President, I will just add, on the death benefits bill, legislation I have offered, that it is important, in my view, we examine the extent of death benefits to men and women who serve our country in combat. Frankly, it is not where it should be. This bill would increase those benefits. It will be done in a way that will not engender a budget point of order. But I think we can make some progress with that tomorrow, and I hope Senators will be alert to this issue. I think, frankly, we are not where we should be in generosity toward those who give their lives for their country.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:17 p.m., adjourned until Thursday, June 17, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 16, 2004:

THE JUDICIARY

MICAELA ALVAREZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE DAVID HITTNER, RETIRING.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) DALE G. GABEL, 0000
REAR ADM. (LH) JEFFREY M. GARRETT, 0000
REAR ADM. (LH) STEPHEN W. ROCHON, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be lieutenant colonel

STEPHAN A. * ALKINS, 0000
ROMNEY C. ANDERSEN, 0000
GEORGE N. * APPENZELLER, 0000
MARTIN F. BAECHLER, 0000
MATTHEW T. * BAKER, 0000
VINCENT * BATTISTA, 0000
ANDREW J. * BAUER, 0000
BRIAN M. * BELSON, 0000
ELIZABETH P. BERBANO, 0000
STEPHEN A. BERNSTEIN, 0000
ELISABETH G. BEYERNOLEN, 0000
JEFFREY G. BLUE, 0000
BRET R. * BOYLE, 0000
KEVIN J. * BOYLE, 0000
DAMON W. * BRANTLEY, 0000
MATTHEW L. * BRENGMAN, 0000
BRUCE A. * BROWN, 0000
JEROME L. * BULLER, 0000
MARK W. * BURNETT, 0000
WAYNE B. * CHUN, 0000
YONG H. * CHUN, 0000
DANIEL L. * CRUSER, 0000
JAMES F. * CUMMINGS, 0000
JAMES E. CZARNIK, 0000
ERIK A. DAHL, 0000
ANTHONY M. DANIELS, 0000
CHRISTIAN * DEGREGORIO, 0000
LEON S. * DEMARTELAERE, 0000
ROBERT C. * DINSMORE, 0000
MICHAEL DLUGOPOLSKI, 0000
MARIA R. DORIA, 0000
JOHN F. * FARR III, 0000
GARY D. * FLEISCHER, 0000

GRANT L. * FORRESTER, 0000
ROBERT D. FORSTEN, 0000
MARK A. FRAMSTAD, 0000
JOHN L. * FRATTARELLI, 0000
JAMES D. * FRIZZI, 0000
GREGORY M. FRYER, 0000
TIMOTHY L. * GARDNER, 0000
MICHAEL J. * GEHRKE, 0000
NICOLO B. * GERALDE, 0000
TAD L. GERLINGER, 0000
MARK D. * GIBBONS, 0000
GAIL M. * GLUSHKO, 0000
JOSEPH M. GOBERN, 0000
EDWARD J. * GORAK, 0000
DELORES M. GRIES, 0000
ROBERT E. * GRONDAHL, 0000
RAYMOND L. * GUNDRY, 0000
DAVID J. HARFORD, 0000
JAMES M. * HARRIS, 0000
JEFFREY T. * HEALY, 0000
KURT S. HENSEL, 0000
RICHARD R. * HIGHTOWER, 0000
SCOTT L. * HOFER, 0000
MICHAEL J. * HOILIEN, 0000
GUNTHER * HSUE, 0000
JEFFREY W. * HUTCHINSON, 0000
INKU * HWANG, 0000
BURTON S. * JAFFE, 0000
RICHARD P. JAMES, 0000
SAMUEL S. * JANG, 0000
STEPHEN W. JARRARD, 0000
CHATT A. * JOHNSON, 0000
TROY R. JOHNSON, 0000
CRAIG C. * JONAS, 0000
JENNIFER L. * JUNNILA, 0000
EMERY L. * KIM, 0000
WILLIAM J. * KIRK III, 0000
MICHAEL J. * KISSENBERTH, 0000
RUSS S. KOTWAL, 0000
DAVID T. KRAMER, 0000
MARC H. LABOVICH, 0000
TERRENCE L. * LAKIN, 0000
ERIC J. * LAWITZ, 0000
STEPHEN A. * LAWSON, 0000
DANIEL F. * LEE, 0000
JEFFREY C. LEGGIT, 0000
ANDREW J. * LIPTON, 0000
JOHN M. * LOWERY, 0000
CLIFFORD C. LUTZ JR., 0000
BRIAN F. MALLOY, 0000
THOR * MARKWOOD, 0000
DOUGLAS D. MATHIS, 0000
CAROLINE A. * MAYLOCK, 0000
SCOTT J. * MCATEE, 0000
JOHN W. * MCBROOM, 0000
JOSEPH M. * MCCLAIN, 0000
CEDRIC F. * MCCORD, 0000
LEE A. MCFADDEN, 0000
HARRY D. * MCKINNON JR., 0000
SCOTT V. * MCRAE, 0000
TAMARA M. * MCREYNOLDS, 0000
ALEXANDRE F. * MIGALA, 0000
JOHN J. * MULLON, 0000
JEFFERY M. * NELSON, 0000
WILLIAM H. * NEWMAN, 0000
JAMES A. * OBNEY, 0000
JOHN J. * OCONNELL, 0000
THOMAS G. * OLIVER, 0000
JOSE M. ORTIZ, 0000
MARK F. OWENS, 0000
HON S. PAK, 0000
CHRIS G. PAPPAS, 0000
MARY V. PARKER, 0000
MARK L. * PASSAMONTI, 0000
GEORGE E. PATTERSON, 0000
DEAN C. * PEDERSEN, 0000
MILLAN R. * PEREZ, 0000
CYNTHIA L. * PERRY, 0000
ROSEMARY P. * PETERSON, 0000
NICHOLAS A. PIANTANIDA, 0000
RICHARD W. POPE, 0000
ERIC G. PUTTLER, 0000
ANTHONY S. * RAMAGE, 0000
LANCE C. * RANEY, 0000
EVAN M. * RENZ, 0000
THOMAS J. * ROGERS, 0000
DAVID C. * ROMINE, 0000
IRENE M. ROSEN, 0000
RUSSELL S. * ROWE, 0000
DINA L. SCHWEITZER, 0000
KEVIN L. * SCOTT, 0000
CLARK P. * SEARLE, 0000
STEPHEN D. * SEYMOUR, 0000
ANDREW * SHORR, 0000
BRIAN W. * SMALLEY, 0000
BRYAN L. SMITH, 0000
REED K. SMITH, 0000
JOSHUA R. * SOKOL, 0000
STEVEN E. * SPENCER, 0000
MICHAEL D. * STALFORD, 0000
KEVIN C. * STROHMEYER, 0000
EDWARD J. SWANTON, 0000
MOTAMEN H. * TAVAF, 0000
MARK D. * TAYLOR, 0000
BROOK A. THOMSON, 0000
MANISH K. * VARMA, 0000
ALISON M. * WARD, 0000
JOEL C. * WEBB, 0000
SAMUEL A. * WEST III, 0000
JOSEPH L. * WILDE, 0000
MARVIN * WILLIAMS JR., 0000
ROBERT V. * WILLIAMSON, 0000
CARL R. * WILLIS, 0000
JAMES V. WINKLEY, 0000
GEORGE R. * WINTERS III, 0000
MARGARET A. * YACOVONE, 0000
IN K. * YOON, 0000
CLORINDA K. ZAWACKI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be lieutenant colonel

DOUGLAS R. DIXON, 0000
DAVID M. FALLAH, 0000
CHRISTOPHER D. JENKINS, 0000
RODNEY H. JONES, 0000
CHIN R. LIN, 0000
WILLIAM F. MADDUX, 0000
EDWARD A. MOORE, 0000
STEFAN S. OLPINSKI, 0000
ROBERT M. PEARSON, 0000
DOMINIQUE M. REYNDERS, 0000
DONALD K. SCALES, 0000
STEPHEN J. TANNER, 0000
CARL G. TEMPEL, 0000
JAMES J. TOMASSETTI, 0000
GLORIA T. TORRES, 0000
THORPE C. WHITEHEAD, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DUNCAN J. MCNABB, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BANTZ J. CRADDOCK, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate June 16, 2004:

THE JUDICIARY

WILLIAM S. DUFFEY, JR., OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

LAWRENCE F. STENGEL, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

PAUL S. DIAMOND, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.